CONGRESSIONAL OVERSIGHT OF FEDERAL PROGRAMS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON THE LEGISLATIVE PROCESS

OF THE

COMMITTEE ON RULES

HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

FIRST AND SECOND SESSIONS

ON

H.R. 2—The Sunset Act of 1981
H.R. 58—The Sunset Review Act of 1981
H. Res. 218—To Provide a Period for Committee Oversight of Programs
H. Res. 100—The Committee Improvement Amendments of 1981

JULY 13, SEPTEMBER 18, 25, OCTOBER 2, 16, NOVEMBER 2, 17, 1981, MARCH 24, AND APRIL 21, 1982

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CONGRESSIONAL OVERSIGHT OF FEDERAL PROGRAMS

FRIDAY, SEPTEMBER 18, 1981

House of Representatives,
Subcommittee on the Legislative Process,
Committee on Rules,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room H-313, the Capitol, Hon. Gillis W. Long (chairman of the subcommittee) presiding.

Present: Representatives Long and Frost.

OPENING STATEMENT OF HON. GILLIS W. LONG, CHAIRMAN OF THE SUBCOMMITTEE ON THE LEGISLATIVE PROCESS

Mr. Long. The subcommittee will come to order.

This is the first in a comprehensive series of hearings to be conducted by the Subcommittee on the Legislative Process on the subject of congressional oversight. This hearing will build on testimony taken jointly with the Subcommittee on Rules of the House on July 13, 1981. [See p. 355.] The focus of that joint hearing was House Resolution 100, the committee improvement amendments, introduced with many cosponsors by the distinguished ranking minority member of this subcommittee, Hon. Trent Lott, who testified on this measure before our joint hearings.

Section 1 of the Lott resolution, which provides for a House oversight plan, has been referred to this subcommittee. Under the provisions of this resolution, committees would present their oversight plans to the Committee on Government Operations. The committee would hold hearings and fashion the committee plans into a resolution which would be brought to the floor to a vote.

In addition, we heard testimony from Hon. Toby Moffett, who advocates setting aside a specific time period in the House schedule for oversight. On September 15, Congressman Moffett introduced House Resolution 218, providing that a 3-week period at the beginning of the second session of the 97th Congress be reserved for committee oversight activities. [See p. 79.]

Yesterday, that resolution was referred to this subcommittee. It is a very interesting pilot-type project. Those of you here obviously have an interest in this subject, and I would refer it to you for your study.

The proposals presented by Congressman Lott and Congressman Moffett are attempts to improve the ability of the House to review Federal programs and make the best use of Federal budget dollars.

Other different methods of approach will also be the subject of these hearings.

H.R. 2, the Sunset Act of 1981, introduced by Hon. Jim Blanchard and cosponsored by more than 135 Members, provides a schedule of automatic termination of programs not renewed by legislative action. H.R. 58, the Sunset Review Act of 1981, is identical to the bill reported by this subcommittee in May 1980. Introduced by Hon. Butler Derrick, a member of this subcommittee, and by me, H.R. 58 now has more than 150 cosponsors. H.R. 58 provides that each committee develop its own agenda for review in each particular Congress, and that the Congress approve these review agendas in the form of a single concurrent resolution.

In the 96th Congress, the Subcommittee on the Legislative Process held extensive hearings on the question of sunset and sunrise legislation. The hearing record remains highly relevant to our concerns in the 97th Congress. But our purpose in opening a new series of hearings is to reevaluate our work in the 96th Congress.

Much has happened to the American economy in the past several years. Double-digit inflation, sluggish growth, rising Federal spending, growing tax burdens, and impossible interest rates have combined to puncture the American dream for a better life for succeeding generations. America has realized that her national resources are not in infinite supply, and our citizens demand that their tax dollars be prudently dispensed. Federal programs must be carefully targeted and pruned to assure that they are efficient and effective.

We in the Congress are also mindful that much has happened to the legislative process in the past several years. In the course of our congressional budget cycle, we have implemented the process of reconciliation. I am certain that most Members share my sense of great concern lest reconciliation become a monster of destruction rather than a helpful tool for the control of Federal spending. In fact, there are those who fear that reconciliation may sow the seeds of destruction of the congressional budget process, which has been hailed as the most important modern institutional reform of the Congress.

Many of our House committees performed a superlative job of complying with the reconciliation instructions in view of the circumstances that existed at the time. Nonetheless Congress must assure that its committees have all necessary resources and incentives for the proper performance of oversight.

Oversight is a fundamental responsibility of the Congress as one of the three coequal branches of Government. To be effective, the budget process must be complemented by comprehensive oversight activities. The performance of oversight is implicit in the authorizations and appropriations processes.

This series of hearings is designed to elicit far-ranging views of the membership of the House on the subject of oversight. I hope that many new ideas, such as those presented by Congressman Lott and Congressman Moffett already, will come forth. I am pleased to welcome here today three distinguished witnesses who have been thoughtful contributors to the legislative process throughout their service in this institution.

[The text of H.R. 2, H.R. 58, and H. Res. 218 follow:]

I

97th CONGRESS
1st Session

H.R. 2

To require reauthorizations of budget authority for Government programs at least every ten years, to provide for review of Government programs at least every ten years, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

January 5, 1981

Mr. Blanchard (for himself, Mr. Mineta, Mr. Gephardt, Mr. Russo, Mr. Fithian, Mr. Albosta, Mr. Applegate, Mr. Bennett, Mr. Boland, Mr. Coelho, Ms. Ferraro, Mr. Fuqua, Mr. Guyer, Mr. Hall of Ohio, Mr. Hightower, Mr. Kastenmeier, Mr. Kogovsek, Mr. Mazzoli, Mr. Mollohan, Mr. Montgomery, Mr. Stark, Mr. Studds, Mr. Synar, Mr. Udall, Mr. Volkmer, Mr. Whitehurst, Mr. Whitley, and Mr. Yatron) introduced the following bill; which was referred jointly to the Committees on Rules and Government Operations

---

A BILL

To require reauthorizations of budget authority for Government programs at least every ten years, to provide for review of Government programs at least every ten years, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sunset Act of 1981".

Sec. 2. The purposes of this Act are—

(1) to require that most Government programs be reauthorized according to a schedule at least once every ten years;

(2) to limit the length of time for which Government programs can be authorized to ten years;

(3) to bar the expenditure of funds for Government programs which have not been provided for by a law enacted during the ten-year sunset reauthorization cycle; and

(4) to encourage the reexamination of selected Government programs each Congress.

SEC. 3. (a) For purposes of this Act:

(1) The term "budget authority" has the meaning given to it by section 3(2) of the Congressional Budget Act of 1974.

(2) The term "permanent budget authority" means budget authority provided for an indefinite period of time or an unspecified number of fiscal years which does not require recurring action by the Congress, but does not include budget authority provided for a specified fiscal year which is available for obligation or expenditure in one or more succeeding fiscal years.

(3) The term "Comptroller General" means the Comptroller General of the United States.

(4) The term "agency" means an executive agency as defined in section 105 of title 5, United States Code, except that such term includes the United States Postal Service and the Postal Rate Commission but does not include the General Accounting Office.

(5) The term "sunset reauthorization cycle" means the period of five Congresses beginning with the Ninety-eighth Congress and with each sixth Congress following the Ninety-eighth Congress.

(b) For purposes of this Act, each program (including any program exempted by provision of law from inclusion in the Budget of the United States) shall be assigned to the functional and subfunctional categories to which it is assigned in the Budget of the United States Government, fiscal year 1979. Each committee of the Senate or the House or Representatives which reports any bill or resolution which authorizes the enactment of new budget authority for a program not included in the fiscal year 1979 budget shall include, in the committee report accompanying such bill or resolution (and, where appropriate, the conferees shall include in their joint statement on such bill or resolution), a statement as to the functional and subfunctional category to which such program is to be assigned.

(c) For purposes of titles I, II, and III of this Act, the reauthorization date applicable to a program is the date specified for such program under section 101(b).

TITLE I—REAUTHORIZATION OF GOVERNMENT PROGRAMS

SEC. 101. (a) Each Government program (except those listed in section 103) shall be reauthorized at least once during each sunset reauthorization cycle during the Congress in which the reauthorization date applicable to such program (pursuant to subsection (b)) occurs.

(b) The first reauthorization date applicable to a Government program is the date specified in the following table, and each subsequent reauthorization date applicable to a program is the date ten years following the preceding reauthorization date:

	Programs included within subfunctional category	First reauthorization date
254	Space, Science, Applications and Technology	September 30, 1984.
272	Energy Conservation.	
301	Water Resources.	
352	Agriculture and Research Services.	
371	Mortgage Credit and Thrift Insurance.	
376	Other Advancement and Regulation of Commerce.	
501	Elementary, Secondary, and Vocational Education.	
601	General Retirement and Disability Insurance.	
602	Federal Employment Retirement and Disability.	
703	Hospital and Medical Care for Veterans.	
806	Other General Government.	
851	General Revenue Sharing.	
051	Department of Defense—Military	September 30, 1986.

	Programs included within subfunctional category	First reauthorization date
053	Atomic Energy Defense Activities.	
154	Foreign Information and Exchange Act.	
251	General Science and Basic Research.	
306	Other Natural Resources.	
351	Farm Income Stabilization.	
401	Ground Transportation.	
502	Higher Education.	
553	Education and Training of Health Care Work Force.	
701	Income Security for Veterans.	
752	Federal Litigative and Judicial Activities.	
802	Executive Director and Management.	
803	Central Fiscal Operations.	
054	Defense Related Activities	September 30, 1988.
152	Military Assistance.	
155	International Financial Programs.	
253	Space Flight.	
255	Supporting Space Activities.	
274	Emergency Energy Preparedness.	
302	Conservation and Land Management.	
304	Pollution Control and Abatement.	
407	Other Transportation.	
504	Training and Employment.	
506	Social Services.	
554	Consumer and Occupational Health and Safety.	
704	Veterans Housing.	
751	Federal Law Enforcement Activities.	
801	Legislative Function.	
852	Other General Purpose Fiscal Assistance.	
153	Conduct of Foreign Affairs	September 30, 1990.
271	Energy Supply.	
303	Recreational Resources.	
402	Air Transportation.	
505	Other Labor Services.	
551	Health Care Services.	
604	Public Assistance and Other Income Supplements.	
702	Veterans Education, Training, and Rehabilitation.	
753	Federal Correctional Activities.	
805	Central Personnel Management.	
902	Other Interest.	
151	Foreign Economic and Financial Assistance	September 30, 1992.

Programs included within subfunctional category		First reauthorization date
276	Energy Information, Policy and Regulation.	
372	Postal Service.	
403	Water Transportation.	
451	Community Development.	
452	Area and Regional Development.	
453	Disaster Relief and Insurance.	
503	Research and General Education Aids.	
552	Health Research.	
603	Unemployment Compensation.	
705	Other Veterans Benefits and Services.	
754	Criminal Justice Assistance.	
804	General Property and Record Management.	
901	Interest on the Public Debt.	

(c)(1) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for a period of more than ten fiscal years, for an indefinite period, or (except during the Congress in which such next reauthorization date occurs) for any fiscal year beginning after the next reauthorization date applicable to such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment to the bill or resolution which would make the authorization period conform to the requirement of such sentence.

(2)(A) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program for any fiscal year beginning after any reauthorization date applicable to such program under subsection (b), unless the provision of such new budget authority is specifically authorized by a law which constitutes a required authorization for such program.

(B) For the purposes of this title, the term "required authorization" means a law authorizing the enactment of new budget authority for a program, which complies with the provisions of paragraph (1).

(3) No new budget authority may be obligated or expended for a program for a fiscal year beginning after the last fiscal year in a sunset reauthorization cycle unless a provision of law providing for the expenditure of such funds has been enacted during such sunset reauthorization cycle.

(4) Any provision of law providing permanent budget authority for a program shall cease to be effective (for the purpose of providing such budget authority) on the first reauthorization date applicable to such program.

(5) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program unless the bill or resolution, or amendment thereto (or the report which accompanies such bill or resolution), includes a specific reference to the provision of law which constitutes a required authorization for such program. Notwithstanding the preceding sentence, it shall be in order

to consider a bill or resolution for the purpose of considering an amendment which provides such reference to the appropriate provision of law.

SEC. 102. (a) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which has been reported by a committee and which authorizes the enactment of new budget authority for a program for a fiscal year beginning after the next reauthorization date applicable to such program, unless a reauthorization review of such program has been completed during the Congress in which the reauthorization date for such program occurs (or during a subsequent Congress when such required authorization is considered), and the report accompanying such bill or resolution includes a separate section entitled "Reauthorization Review" recommending, based on such review, whether the program or the laws affecting such program should be continued without change, continued with modifications, or terminated, and also includes, to the extent the committee or committees having jurisdiction deem appropriate, each of the following matters:

(1) Information and analysis on the organization, operation, costs, results, accomplishments, and effectiveness of the program.

(2) An identification of any other programs having similar objectives, and a justification of the need for the proposed program in comparison with those other programs which may be potentially conflicting or duplicative.

(3) An identification of the objectives intended for the program, and the problems or needs which the program is intended to address, including an analysis of the performance expected to be achieved, based on the bill or resolution as reported.

(4) A comparison of the amount of new budget authority which was authorized for the program in each of the previous four fiscal years and the amount of new budget authority provided in each such year.

(b) It shall not be in order in either the Senate or the House of Representatives to consider a bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for which there previously has been no such authorization unless the report accompanying such bill or resolution sets forth, to the extent that the committee or committees having jurisdiction deem appropriate, the information specified in subsection (a) (2) and (3).

(c) Each committee having legislative jurisdiction over a program referred to in section 103 shall conduct a review of such program of the type described in subsection (a) of this section at least once during each sunset reauthorization cycle, during the Congress in which the reauthorization date applicable to such program occurs, and shall submit to the Senate or the House of Representatives, as the case may be, a report containing its recommendations and other information of the type described in subsection (a). It shall not be in order in either the Senate or the House of Representatives to consider a bill or resolution reported by the committee having legislative jurisdiction which authorizes the enactment of new budget authority for such program unless such report accompanies such bill or resolution, or has been submitted during the Congress in which the reauthorization date for such program occurred as provided in section 101(b), whichever first occurs.

SEC. 103. Section 101(c) shall not apply to the following:

(1) Programs included within functional category 900 (Interest).

(2) Any Federal programs or activities to enforce civil rights guaranteed by the Constitution of the United States or to enforce antidiscrimination laws of the United States, including but not limited to the investigation of violations of civil rights, civil or criminal litigation or the implementation or enforcement of

judgments resulting from such litigation, and administrative activities in support of the foregoing.

(3) Programs which are related to the administration of the Federal judiciary and which are classified in the fiscal year 1979 budget under subfunctional category 752 (Federal litigative and judicial activities).

(4) Payments of refunds of internal revenue collections as provided in title I of the Supplemental Treasury and Post Office Departments Appropriation Act of 1949 (62 Stat. 561), but not to include refunds to persons in excess of their tax payments.

(5) Programs included in the fiscal year 1979 budget in subfunctional categories 701 (Income security for veterans), 702 (Veterans education, training, and rehabilitation), 704 (Veterans housing), and programs for providing health care which are included in such budget in subfunctional category 703 (Hospital and medical care for veterans).

(6) Social Security and Federal employee retirement programs including the following:

(A) Programs funded through trust funds which are included with subfunctional categories 551 (Health care services), 601 (General retirement and disability insurance), or 602 (Federal employee retirement and disability).

(B) Retirement pay and retired pay of military personnel on the retired lists of the Army, Navy, Marine Corps, and the Air Force, including the Reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve; and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code (survivor's benefits), classified in the fiscal year 1979 budget in subfunctional category 051 (Department of Defense—military).

(C) Retirement pay and medical benefits for retired commissioned officers of the Coast Guard, the Public Health Service Commissioned Corps, and the National Oceanic and Atmospheric Commissioned Corps and their survivors and dependents, classified in the fiscal year 1979 budget in subfunctional category 551 (Health care services) or in subfunctional category 306 (Other natural resources.

(D) Retired pay of military personnel of the Coast Guard and Coast Guard Reserve, members of the former Lighthouse Service, and for annuities payable to beneficiaries of retired military personnel under the retired serviceman's family protection plan (10 U.S.C. 1431-1446) and survivor benefit plan (10 U.S.C. 1447–1455), classified in the fiscal year 1979 budget in subfunctional category 403 (Water transportation).

(E) Payments to the Central Intelligence Agency Retirement and Disability Fund, classified in fiscal year 1979 budget in subfunctional category 054 (Defense-related activities).

(F) Payments to the Civil Service Retirement and Disability Fund for financing unfunded liabilities, classified in fiscal year 1979 budget in subfunctional category 805 (Central personnel management).

(G) Payments to the Foreign Service Retirement and Disability Fund, classified in fiscal year 1979 budget in subfunctional category 153 (Conduct of foreign affairs).

(H) Payments to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, classified in fiscal year 1979 budget in various subfunctional categories.

(I) Administration of the retirement and disability programs set forth in this section.

SEC. 104. (a) It is the sense of the Congress that all programs should be considered and reauthorized in program categories which constitute major areas of legislative policy.

Such authorizations should be for sufficient periods of time to enhance oversight and the review and evaluation of Government programs.

(b) The reauthorization schedule contained in section 101(b) may be changed by concurrent resolution of the two Houses of the Congress (except that changes in the schedule affecting permanent appropriations may be made only by law).

(c) All messages, petitions, memorials, concurrent resolutions, and bills proposing changes in section 101(b) and all bills proposing changes in section 103, shall be referred first to the committee with legislative jurisdiction over any program affected by the proposal and sequentially to the Committee on Rules in the House of Representatives or to the Committee on Rules and Administration in the Senate.

(d) Except as provided in subsection (f), the Committee on Rules in the House of Representatives or the Committee on Rules and Administration in the Senate shall report with its recommendations any concurrent resolution or bill referred to it under subsection (c) and which previously has been reported favorably by a committee of legislative jurisdiction within thirty days (not counting any day on which the Senate or the House of Representatives is not in session), beginning with the day following the day on which such resolution or bill is so referred.

(e) The recommendations of the Committee on Rules or the Committee on Rules and Administration pursuant to subsection (d) or (f) shall include a statement on each of the following matters:

(1) The effect the proposed change would have on the sunset reauthorization schedule.

(2) The effect the proposed change would have on the jurisdictional and reauthorization responsibilities and workloads of the authorizing committees of Congress.

(3) Any suggested grouping of similar programs which would further the goals of this Act to make more effective comparisons between programs having like objective.

(f) Any concurrent resolution or bill proposing a change in section 101(b) or 103 which has been reported by a committee before July 1, 1982, shall be referred in the House to the Committee on Rules and in the Senate to the Committee on Rules and Administration. Such committee shall report an omnibus concurrent resolution or bill containing its recommendations regarding the proposed changes by August 1, 1982, and consideration of such bill or resolution shall be highly privileged in the House of Representatives and privileged in the Senate. The provisions of subsections (c) and (d) of section 1017 of the Impoundment Control Act of 1974, insofar as they relate to consideration of rescission bills, shall apply to the consideration of concurrent resolutions and bills proposing changes reported pursuant to this subsection, amendments thereto, motions and appeals with respect thereto, and conference reports thereon.

(g) It shall not be in order in the Senate or the House of Representatives to consider a bill or resolution reported pursuant to subsection (b), (c), (d), or (f) which proposes a reauthorization date for a program beyond the final reauthorization date of the sunset reauthorization cycle then in progress. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which meets the requirements of this subsection.

TITLE II—PROGRAM INVENTORY

SEC. 201. (a) The Comptroller General and the Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service, shall prepare an inventory of Federal programs (hereafter in this title referred to as the "program inventory").

(b) The purpose of the program inventory is to advise and assist the Congress in carrying out the requirements of titles I and III. Such inventory shall not in any way bind the committees of the Senate or the House of Representatives with respect to their responsibilities under such titles and shall not infringe on the legislative and oversight responsibilities of such committees. The Comptroller General shall compile and maintain the inventory, and the Director of the Congressional Budget Office shall provide budgetary information for inclusion in the inventory.

(c) Not later than January 1, 1982, the Comptroller General, after consultation with the Director of the Congressional Budget Office and the Director of the Congressional Research Service, shall submit the program inventory to the Senate and House of Representatives.

(d) In the report submitted under this section, the Comptroller General, after consultation and in cooperation with and consideration of the views and recommendations of the Director of the Congressional Budget Office, shall group programs into program areas appropriate for the exercise of the review and reexamination requirements of this Act. Such groupings shall identify program areas in a manner which classifies each program in only one functional and only one subfunctional category and which is consistent with the structure of national needs, agency missions, and basic programs developed pursuant to section 201(i) of the Budget and Accounting Act, 1921.

(e) The program inventory shall set forth for each program each of the following matters:

(1) The specific provision(s) of law authorizing the program.

(2) The committees of the Senate and the House of Representatives which have legislative or oversight jurisdiction over the program.

(3) A brief statement of the purpose or purposes to be achieved by the program.

(4) The committees which have jurisdiction over legislation providing new budget authority for the program, including the appropriate subcommittees of the Committees on Appropriations of the Senate and the House of Representatives.

(5) The agency and, if applicable, the subdivision thereof responsible for administering the program.

(6) The grants-in-aid, if any, provided by such program to State and local governments.

(7) The next reauthorization date for the program.

(8) A unique identification number which links the program and functional category structure.

(9) The year in which the program was originally established and, where applicable, the year in which the program expires.

(10) Where applicable, the year in which new budget authority for the program was last authorized

and the year in which current authorizations of new budget authority expire.

(f) The inventory shall contain a separate tabular listing of programs which are not required to be reauthorized pursuant to section 101(c).

(g) The report also shall set forth for each program whether the new budget authority provided for such programs is—

(1) authorized for a definite period of time;

(2) authorized in a specific dollar amount but without limit of time;

(3) authorized without limit of time or dollar amounts;

(4) not specifically authorized; or

(5) permanently provided,

as determined by the Director of the Congressional Budget Office.

(h) For each program or group of programs, the program inventory also shall include information prepared by the Director of the Congressional Budget Office indicating each of the following matters:

(1) The amounts of new budget authority authorized and provided for the program for each of the preceding four fiscal years and, where applicable, the four succeeding fiscal years.

(2) The functional and subfunctional category in which the program is presently classified and was classified under the fiscal year 1979 budget.

(3) The identification code and title of the appropriation account in which budget authority is provided for the program.

Sec. 202. The General Accounting Office, the Congressional Research Service, and the Congressional Budget Office shall permit the mutual exchange of available information in their possession which would aid in the compilation of the program inventory.

Sec. 203. The Office of Management and Budget, and the Executive agencies and the subdivisions thereof shall, to the extent necessary and possible, provide the General Accounting Office with assistance requested by the Comptroller General in the compilation of the program inventory.

Sec. 204. Each committee of the Senate and the House of Representatives, the Congressional Budget Office, and the Congressional Research Service shall review the program inventory as submitted under section 201 and not later than March 1, 1982, each shall advise the Comptroller General of any revisions in the composition or identification of programs and groups of programs which it recommends. After full consideration of the reports of all such committees and officials, the Comptroller General in consultation with the committees of the Senate and the House of Representatives shall report, not later than May 1, 1982, a revised program inventory to the Senate and the House of Representatives.

SEC. 205. (a) The Comptroller General, after the close of each session of the Congress, shall revise the program inventory and report the revisions to the Senate and the House of Representatives.

(b) After the close of each session of the Congress, the Director of the Congressional Budget Office shall prepare a report, for inclusion in the revised inventory, with respect to each program included in the program inventory and each program established by law during such session, which includes the amount of the new budget authority authorized and the amount of new budget authority provided for the current fiscal year and each of the five succeeding fiscal years. If new budget authority is not authorized or provided or is authorized or provided for an indefinite amount for any of such five succeeding fiscal years with respect to any program, the Director shall make projections of the amounts of such new budget authority necessary to be authorized or provided for any such fiscal year to maintain a current level of services.

(c) Not later than one year after the first or any subsequent reauthorization date, the Director of the Congressional Budget Office, in consultation with the Comptroller General and the Director of the Congressional Research Service, shall compile a list of the provisions of law related to all programs subject to such reauthorization date for which new budget authority was not authorized. The Director of the Congressional Budget Office shall include such a list in the report required by subsection (b). The committees with legislative jurisdiction over the affected programs shall study the affected provisions and make any recommendations they deem to be appropriate with regard to such provisions to the Senate and the House of Representatives.

SEC. 206. The Comptroller General and the Director of the Congressional Budget Office shall include in their respective reports to the Congress pursuant to sections 202(f) and 702(e) of the Congressional Budget Act of 1974 an assessment of the adequacy of the functional and subfunctional categories contained in section 101(b) of this Act for grouping programs of like missions or objectives.

SEC. 207. (a) The Director of the Congressional Budget Office shall tabulate and issue an annual report on the progress of congressional action on bills and resolutions reported by a committee of either House or passed by either House which authorize the enactment of new budget authority for programs.

(b) The report shall include an up-to-date tabulation for the fiscal year beginning October 1 and the succeeding four fiscal years of the amounts of budget authority (1) authorized by law or proposed to be authorized in any bill or resolution reported by any committee of the Senate or the House of Representatives, or (2) if budget authority is not authorized or proposed to be authorized for any of the five fiscal years, the amounts necessary to maintain a current level of services for programs in the inventory.

(c) The Director of the Congressional Budget Office shall issue periodic reports on the programs and the provisions of laws which are scheduled for reauthorization in each Congress pursuant to the reauthorization schedule in section 101(b). In these reports, the Director shall identify each provision of law which authorizes the enactment of new budget authority for programs scheduled for reauthorization and the title of the appropriation bill, or part thereof, which would provide new budget authority pursuant to each authorization.

TITLE III—PROGRAM REEXAMINATION

SEC. 301. (a) Each committee of the Senate and the House of Representatives periodically shall provide through the procedures established in section 302, for the conduct of a comprehensive reexamination of selected programs or groups of programs over which it has jurisdiction.

(b) In selecting programs and groups of programs for reexamination, each committee shall consider each of the following matters:

(1) The extent to which substantial time has passed since the program or group of programs has been in effect.

(2) The extent to which a program or group of programs appears to require significant change.

(3) The resources of the committee with a view toward undertaking reexaminations across a broad range of programs.

(4) The desirability of examining related programs concurrently.

SEC. 302. (a)(1) The funding resolution first reported by each committee of the Senate in 1983, and thereafter for the first session of each Congress, shall include, and the first funding resolution introduced by each committee of the House of Representatives (and referred to the Committee on House Administration) for such year and thereafter for the first session of each Congress shall include a section setting forth the committee's plan for reexamination of programs under this title. Such plan shall include each of the following matters:

(A) The programs to be reexamined and the reasons for their selection.

(B) The scheduled completion date for each program reexamination, which date shall not be later than the end of the Congress preceding the Congress in which the reauthorization date applicable to a program occurs as provided in section 101(b), unless the committee explains in a statement in the report accompanying its proposed funding resolution (in the Senate), or in a statement supplied by the respective committee and included in the report of the Committee on House Administration (in the House of Representatives), the reasons for a later completion date, except that reports on programs scheduled for reauthorization during the Ninety-eighth Congress and selected for reexamination in a committee's plan adopted in 1983 may be submitted at any time until February 15, 1984.

(C) The estimated cost for each reexamination.

(2) The report accompanying the funding resolution reported by each committee of the Senate in 1983 and thereafter for the first session of each Congress, shall include, and the report accompanying the funding resolution reported by the Committee on House Administration with respect to each committee of the House of Representatives shall include a statement of that committee, with respect to each reexamination in its plan both the following matters:

(A) A description of the components of the reexamination.

(B) A statement of whether the reexamination is to be conducted (i) by the committee, or (ii) at the request and under the direction of or under contract with the committee, as the case may be, by one or more instrumentalities of the legislative branch, one or more instrumentalities of the executive branch, or one or more nongovernmental organizations, or (iii) by a combination of the foregoing.

(3) It shall not be in order to consider a funding resolution with respect to a committee of the Senate or the House of Representatives in 1983, and thereafter for the first session of a Congress, unless—

(A) such resolution includes a section containing the information described in paragraph (1) and the report accompanying such resolution contains the information described in paragraph (2); and

(B) the report required by subsection (c) with respect to each program reexamination scheduled for completion during the preceding Congress by such committee has been submitted for printing.

(4) It shall not be in order to consider an amendment to the section of a funding resolution described in paragraph (1) reported by a committee of the Senate for a year, or reported by the Committee on House Administration with respect to a committee of the House of Representatives for a year—

(A) if such amendment would require reexamination of a program which has been reexamined by such committee under this section during any of the five preceding years;

(B) if such amendment would cause such section not to contain the information described in paragraph (1) with respect to each program to be reexamined by such committee; or

(C) if notice of intention to propose such amendment has not been given to such committee and, in the case of an amendment in the Senate, to the Committee on Rules and Administration of the Senate, or, in the case of an amendment in the House of Reprsentatives, to the Committee on House Administration, not later than January 20 of the calendar year in which such year begins or the first day of the session of the Congress in which such year begins, whichever is later. The notice required by this subparagraph shall include the substance of the amendment intended to be proposed, and, if such amendment would add one or more programs to be reexamined, shall include the information described in paragraphs (1) and (2) with respect to each such program. This subparagraph shall not apply to amendments proposed by such committee or by the Committee on Rules and Administration or House Administration, as the case may be.

(b) In order to achieve coordination of progam reexamination each committee shall, in preparing each reexamination plan required by subsection (a), consult with appropriate committees of the Senate or appropriate committees of the House of Representatives, as the case may be, and shall inform itself of related activities of and support or assistance that may be provided by (1) the General Accounting Office, the Congressional Budget Office, the Congressional Research Service, and the Office of Technology Assessment, and (2) appropriate instrumentalities in the executive and judicial branches.

(c) Each committee shall prepare and have printed a report with respect to each reexamination completed under this title. Each such report shall be delivered to the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, not later than the date specified in the resolution and printed as a Senate or House document, accordingly. To the extent permitted by law or regulation, such number of additional copies as the committee may order shall be printed for the use of the committee. If two or more committees have legislative jurisdiction over the same program or portions of the same program, such committees may reexamine such program jointly and submit a joint report with respect to such reexamination.

(d) The report pursuant to subsection (c) shall set forth the findings, recommendations, and justifications with respect to the program, and shall include to the extent the committee deems appropriate, each of the following matters:

(1) An identification of the objectives intended for the program and the problem it was intended to address.

(2) An identification of any trends, developments, and emerging conditions which are likely to affect the future nature and extent of the problems or needs which the program is intended to address and an assessment of the potential primary and secondary effects of the proposed program.

(3) An identification of any other program having potentially conflicting or duplicative objectives.

(4) A statement of the number and types of beneficiaries or persons served by the program.

(5) An assessment of the effectiveness of the program and the degrees to which the original objectives of the program or group of programs have been achieved.

(6) An assessment of the cost effectiveness of the program, including where appropriate, a cost-benefit analysis of the operation of the program.

(7) An assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program.

(8) Information on the regulatory, privacy, and paperwork impacts of the program.

(e) A report submitted pursuant to this section shall be deemed to satisfy the reathorization review requirements of title I.

Sec. 303. Each department or agency of the executive branch which is responsible for the administration of a program selected for reexamination pursuant to this title shall, not later than six months before the completion date specified for reexamination reports pursuant to section 302(a)(1)(B), submit to the Office of Management and Budget and to the appropriate committee or committees of the Senate and the House of Representatives a report of its findings, recommendations, and justifications with respect to each of the matters set forth in section 302(d), and the Office of Management and Budget shall submit to such committee(s) such comments as it deems appropriate.

Sec. 304. For the purposes of this title:

(1) The term "funding resolution" means—

(A) with respect to each committee of the Senate, the first authorization resolution reported by such committee for a year under section 133(g) of the Legislative Reorganization Act of 1946, or any action taken in lieu of such funding resolution, which in any event shall occur not later than May 15; or

(B) with respect to each committee of the House of Representatives, the primary funding resolution for such committee which is effective for the duration of a Congress.

(2) An amendment to a funding resolution includes a resolution of the Senate which amends such funding resolution.

TITLE IV—TAX EXPENDITURES

SEC. 401. For purposes of this title—

(1) The term "tax expenditure provision" means any provision of Federal law which allows a special exclusion, exemption, or deduction in determining liability for any tax or which provides a special credit against any tax, a preferential rate of tax, or a deferral of tax liability.

(2) The term "Committee on Ways and Means" means the Committee on Ways and Means of the House of Representatives.

(3) The term "Committee on Finance" means the Committee on Finance of the Senate.

(4) The term "Joint Tax Committee" means the Joint Committee on Taxation of the Congress.

SEC. 402. (a) Not later than July 1, 1982, the Director of the Congressional Budget Office after consultation with the Joint Tax Committee shall prepare an inventory of tax expenditures provisions (hereafter in this part referred to as the "tax inventory") and submit a report thereon to the Committee on Ways and Means and the Committee on Finance. The report shall include for each tax expenditure provision—

(1) the statute, regulation, ruling, or other circumstance which is the basis for the tax expenditure provision;

(2) an identification of the tax against which the tax expenditure provision allows a special exclusion, exemption, or deduction in determining liability or provides a special credit, a preferential rate of tax, or a deferral of tax liability;

(3) a brief statement of the purpose or purposes to be achieved by the tax expenditure provision;

(4) the period of time, if any, for which the tax expenditure provision has been in effect;

(5) the estimated revenue loss from the tax expenditure provision for the preceding 4 fiscal years;

(6) an analysis of the distributional impact of the tax expenditure provision; and

(7) the functional and subfunctional category of the budget in which the tax expenditure provision is classified.

(b) The General Accounting Office, the Congressional Research Service, and the Office of Technology Assessment shall provide the Congressional Budget Office and the Joint Tax Committee with information requested which would aid in the compilation of the tax inventory.

(c) The Department of the Treasury, the Office of Management and Budget, and the other agencies shall, to the extent necessary and possible, provide the Congressional Budget Office and the Joint Tax Committee with any assistance requested for the preparation of the tax inventory.

SEC. 403. The Committee on Ways and Means and the Committee on Finance shall review the tax inventory submitted as provided in section 402 and, not later than October 1, 1982, shall advise the Director of the Congressional Budget Office of any proposed revisions in the composition or identification of tax expenditure provisions in the tax inventory. After considering the advice of such commodities, such Director, in consultation with the Joint Tax Committee, shall report, not later than December 1, 1982, a revised tax inventory to the House and the Senate.

SEC. 404. (a) The Director of the Congressional Budget Office, after the close of each session of the Congress, shall revise the tax inventory after consultation with the Joint Tax Committee and issue a report on the revisions thereto to the Senate and House of Representatives. Such report shall indicate, with respect to each tax expenditure provision established during such session, the revenue loss which will result in the current fiscal year and the 5 succeeding fiscal years.

(b) The Director of the Congressional Budget Office shall tabulate and issue periodic reports to the Senate and the House of Representatives on the progress of congressional action on bills and resolutions reported by the Committee on Ways and Means or the Committee on Finance or passed by either House which affect tax expenditure provisions and each new tax expenditure provision proposed to be enacted by any bill or resolution reported, with respect to the amount of revenue loss which would result in the next fiscal year and each of the 4 succeeding fiscal years.

SEC. 405. (a) During the second session of the Ninety-seventh Congress, the Committee on Ways and Means and the Committee on Finance shall report, and the Congress shall complete action on, a bill prescribing a schedule of reauthorization dates, with such modifications as may be necessary to take into account the considerations set forth in section 406 for all tax expenditure provisions (other than those specifically exempted in the bill) in the tax inventory, or, if not in such inventory, which are in effect on the date of the enactment of such bill or which have been enacted or otherwise established as of such date will become effective after such date. Under such schedule there shall be 5 first reauthorization dates for tax expenditure provisions beginning with September 30, 1984, and continuing on September 30 of each of the following 4 even-numbered years, and each subsequent reauthorization date applicable to a tax expenditure provision shall be the date 10 years following the preceding reauthorization date.

(b) Upon enactment of the bill described in subsection (a), and subject to the exemptions and modifications provided pursuant to subsections (a) and (d), each tax expenditure provision shall cease to be effective on January 1 of the year following the first (or subsequent) reauthorization date provided in the schedule adopted pursuant to subsection (a) and the bills, resolutions, or amendments thereto enacted pursuant to the subsection (d), unless it would otherwise cease to be effective at an earlier date, or unless it is reauthorized by a law enacted after the date of enactment of this Act and during or subsequent to the Congress in which it is scheduled for reauthorization.

(c) It shall not be in order in either the Senate or House of Representatives to consider a bill or resolution, or amendment thereto, which provides for the reauthorization of all or part of a tax expenditure provision which is in the schedule adopted pursuant to subsection (a) or which was enacted pursuant to subsection (d)(i) for an indefinite period of time, (ii) for a period excedding 10 taxable years, or (iii) (except during the Congress in which the next reauthorization date for such provision occurs) for any taxable year beginning after the next reauthorization date applicable to such tax expenditure provision.

(d) After the enactment of the bill described in subsection (a), it shall not be in order in either the Senate or the House of Representatives to consider any bill, resolution, or amendment thereto which proposes the enactment of a tax expenditure provision which does not constitute a reauthorization under subsection (c) the does not have a reauthorization date (and subsequent reauthorization dates) which conform with the schedule provided in subsection (a): *Provided,* That any such bill, resolution, or amendment thereto may be specifically exempted from the requirements of this subsection: *And provided further,* That such modifications as may be necessary to take into account the consideration set forth in section 406 may be prescribed in any such bill, resolution, or amendment thereto.

(e) Reauthorization dates shall be prescribed under subsections (a) and (d) so as to provide for a review of tax expenditure provisions during the same Congress as the review under this Act of programs and tax expenditure provisions having similar objectives, consistent with providing an even distribution of the work of reviewing tax-expenditure provisions during each Congress and taking into consideration the economic impact of the review process and the interest of avoiding adverse impact on previously acquired assets.

SEC. 406. In carrying out the requirements of section 405 the Committee on Ways and Means, the Committee on Finance, and the Congress may prescribe such transition rules, conforming and technical changes, and substitute provisions to mimize unfairness, to mitigate any adverse effect which might result for taxpayers who have relied on a tax expenditure provision, or to provide for an orderly end of the effectiveness of any such provison.

SEC. 407. It shall not be in order in either the Senate or the House of Representatives to consider a bill, resolution, or amendment thereto which proposes a reauthorization date for a tax expenditure provision beyond the final reauthorization date of the current sunset reauthorization cycle.

SEC. 408. (a) It shall not be in order in either the Senate or the House of Representatives to consider any bill, resolution, or amendment thereto, which provides for the reauthorization of a tax expenditure provision for a taxable year beginning after the next reauthorization date applicable to such provision, unless a reauthorization review of such provision has been completed during the Congress in which the reauthorization date for such provision occurs, and the report accompanying such bill or resolution includes a recommendation as to whether the tax expenditure provision should be continued without change, continued with modifications, or terminated, and includes, in the scope and detail the Committee on Ways and Means and the Committee on Finance deem appropriate, the following:

(1) information and analysis on the operation, costs, results, accomplishments, and effectiveness of the tax expenditure provision;

(2) an identification of any other tax expenditure provisions or any other programs having similar objectives, and a justification of the need for the proposed tax expenditure in comparison with those tax expenditure provisions or programs which may be potentially conflicting or duplicative; and

(3) an identification of the objectives intended for the tax expenditure provision, and the problem or needs which the tax expenditure provision is intended to address, including an analysis of the performance expected to be achieved, based on the bill or resolution as reported.

(b) It shall not be in order in either the Senate or the House of Representatives to consider any bill, resolution, or amendment thereto, which proposes the enactment of a new tax expenditure provision unless the bill, resolution, or amendment thereto is accompanied by a report which sets forth, in the scope and detail the Committee on Ways and Means and the Committee on Finance, as they deem appropriate, the information specified in subsections (a)(2) and (a)(3) of this section.

TITLE V—MISCELLANEOUS

SEC. 501. Section 206 of the Budget and Accounting Act, 1921 (31 U.S.C. 15), is amended by inserting immediately before the period a comma and "or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 201 of this Act for the fiscal year".

SEC. 502. Nothing in this Act shall require the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, or which are otherwise specifically protected by law.

SEC. 503. The provisions of this section and sections 101(a), 101(b), 101(c)(1), 101(c)(2), 101(c)(5), 102, 104(a), 104(c), 104(d), 104(e), 104(f), 104(g), title III (except section

303), section 505 and section 506 of this Act are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

Sec. 504. (a)(1) To assist in the review or reexamination of a program, the head of an agency which administers such program and the head of any other agency, when requested, shall provide to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program such studies, information, analyses, reports, and assistance as the committee may request.

(2) Not later than six months prior to the first reauthorization date specified for a program in section 101(b) the head of the agency which administers such program or the head of any other agency, when requested by a committee of the

Senate or House of Representatives, shall conduct a review of those regulations currently promulgated and in use by that agency which the committee specifically has requested be reviewed and submit a report to the Senate or the House of Representatives as the case may be, setting forth the regulations that agency intends to retain, eliminate, or modify if the program is reauthorized and stating the basis for its decision.

(3) On or before October 1 of the year preceding the Congress in which occurs the reauthorization date for a program, the Comptroller General shall furnish to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program a listing of the prior audits and reviews of such program completed during the preceding six years.

(4) Consistent with the discharge of the duties and functions imposed by law on them or their respective Offices or Service, the Comptroller General, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service shall furnish to each committee of the Senate and the House of Representatives such information, analyses, and reports as the committee may request to assist it in conducting reviews or evaluations of programs.

(b)(1) On or before October 1 of the year preceding the Congress in which occurs the reauthorization date for a program, the President, with the cooperation of the head of each appropriate agency, shall submit to the Congress a "Regulatory Duplication and Conflicts Report" for all such programs scheduled for reauthorization in the next Congress.

(2) Each such regulatory duplication and conflicts report shall—

(A) identify regulatory policies, including data collection requirements, of such programs or the agencies which administer them, which duplicate or conflict with each other or with rules or regulations or regulatory policies of other programs or agencies, and identify the provisions of law which authorize or require such duplicative or conflicting regulatory policies or the promulgation of such duplicative or conflicting rules or regulations;

(B) identify the regulatory policies, including data collection requirements, of such programs which are, or which tend to be, duplicative of or in conflict with rules or regulations or regulatory policies of State or local governments;

(C) contain recommendations which address the conflicts or duplications identified in subsections (A) and (B).

(3) The regulatory duplication and conflicts report submitted by the President pursuant to this subsection shall be

referred to the committee or committees of the House of Representatives and the Senate with legislative jurisdiction over the programs affected by the reports.

SEC. 505. (a) Not later than fifteen days after the beginning of the second regular session of the Congress in which occurs the reauthorization date applicable to a program under section 101(b), the chairmen of the committees of the Senate and the House of Representatives having legislative jurisdiction over such programs shall introduce, in their respective Houses, a bill which, if enacted into law, would constitute a required authorization (as defined in section 101(c)(1)(B)), and such a bill (hereafter in this section referred to as a "sunset reauthorization bill") shall be referred to the appropriate committee of the Senate or the House of Representatives, as the case may be. This subsection shall not apply in the case of a program which has been reauthorized by a required authorization which was signed into law by the President prior to fifteen days after the beginning of the second regular session of the Congress in which occurs the reauthorization date applicable to such program.

(b) If the committee to which a sunset reauthorization bill for a program has not reported such bill by May 15 of the year in which the reauthorization date for such program occurs, and no other bill which would constitute a required authorization for such program has been enacted into law by that date, it is in order to move to discharge the committee from further consideration of the sunset reauthorization bill at any time thereafter.

(c) The provisions of section 912(a) of the Reorganization Act of 1977, as it relates to the discharge of resolutions of disapproval on reorganization plans, shall apply to motions to discharge sunset reauthorization bills, and the provisions of subsections (b)(2), (c) (2) through (5), and (d) of section 1017 of the Impoundment Control Act of 1974, insofar as they relate to the consideration of rescission bills shall apply to the consideration of such sunset reauthorization bills, amendments thereto, motions and appeals with respect thereto and conference reports thereon. The provisions of section 402 of the Congressional Budget Act of 1974 shall not apply to the consideration of a sunset reauthorization bill with respect to which a motion to discharge has been agreed to.

SEC. 506. The Committees on Governmental Affairs and on Rules and Administration of the Senate and the Committees on Government Operations and on Rules of the House of Representatives shall review the operation of the procedures established by this Act, and shall submit a report not later than December 31, 1988, and each five years thereafter, setting forth their findings and recommendations. Such reviews and reports may be conducted jointly.

SEC. 507. There are hereby authorized to be appropriated through fiscal year 1992 such sums as may be necessary to carry out the review requirement of titles I and III and the requirements for the compilation of the inventory of Federal programs as set forth in title II.

I

97th CONGRESS
1st Session

H. R. 58

To establish as a part of the Rules of the House of Representatives and the Senate a procedure for the periodic congressional review of Federal programs and tax expenditures, and to improve legislative oversight of Federal activities and regulatory programs.

IN THE HOUSE OF REPRESENTATIVES

January 5, 1981

Mr. Long of Louisiana (for himself and Mr. Derrick) introduced the following bill; which was referred to the Committee on Rules

March 4, 1981

Additional sponsors: Mr. Addabbo, Mr. Akaka, Mr. Annunzio, Mr. Anthony, Mr. Applegate, Mr. Bailey of Missouri, Mr. Barnard, Mr. Bedell, Mr. Beilenson, Mr. Benjamin, Mr. Bevill, Mr. Bolling, Mr. Boner of Tennessee, Mrs. Bouquard, Mr. Breaux, Mr. Brown of Ohio, Mr. Chappell, Mrs. Chisholm, Mr. Clinger, Mr. Coelho, Mr. Coleman, Mr. Corrada, Mr. Cotter, Mr. D'Amours, Mr. Daschle, Mr. de la Garza, Mr. Derwinski, Mr. Dornan of California, Mr. Dougherty, Mr. Downey, Mr. Duncan, Mr. Eckart, Mr. Edgar, Mr. Ertel, Mr. Evans of Georgia, Mr. Evans of Indiana, Mr. Fascell, Ms. Ferraro, Mr. Fish, Mr. Fithian, Mr. Fowler, Mr. Frost, Mr. Ginn, Mr. Glickman, Mr. Gradison, Mr. Gregg, Mr. Guarini, Mr. Guyer, Mr. Ralph M. Hall, Mr. Hall of Ohio, Mr. Hance, Mr. Hatcher, Mr. Hefner, Mr. Huckaby, Mr. Ireland, Mr. Jacobs, Mr. Johnston, Mr. Jones of North Carolina, Mr. Kogovsek, Mr. Latta, Mr. Leath of Texas, Mr. Lehman, Mr. Lujan, Mr. Marks, Mr. Matsui, Mr. Mavroules, Mr. McCurdy, Mr. McHugh, Mr. Mica, Mr. McKinney, Ms. Mikulski, Mr. Moakley, Mr. Mottl, Mr. Murphy, Mr. Neal, Mr. Nelson, Ms. Oakar, Mr. Ottinger, Mr. Panetta, Mr. Pashayan, Mr. Patman, Mr. Patterson, Mr. Pepper, Mr. Price, Mr. Pritchard, Mr. Regula, Mr. Reuss, Mr. Roth, Mr. Russo, Mr. Santini, Mr. Sharp, Mr. Shumway, Mr. Skeen, Mr. Simon, Mr. Smith of Alabama, Mr. Spence, Mr. Stark, Mr. Stenholm, Mr. Stump, Mr. Sunia, Mr. Udall, Mr. Watkins, Mr. Weaver, Mr. Whitehurst, Mr. Whittaker, Mr. Whitley, Mr. Williams of

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Montana, Mr. WILSON, Mr. WINN, Mr. WOLPE, Mr. WON PAT, and Mr. ZEFERETTI

A BILL

To establish as a part of the Rules of the House of Representatives and the Senate a procedure for the periodic congressional review of Federal programs and tax expenditures, and to improve legislative oversight of Federal activities and regulatory programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sunset Review Act of 1981".

PURPOSE

SEC. 2. It is the purpose of this Act to establish a procedure for the periodic sunset review of Federal programs and tax expenditures by the Congress, and to improve legislative oversight of Federal activities and regulatory programs.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the terms "sunset review" and "review", with respect to any Federal program (including regulatory programs) or any tax expenditure, mean the study and evaluation of such program or tax expenditure by a legislative committee of the House of Representatives

or the Senate, as provided in section 7, for the purpose of determining whether the continuation of such program or tax expenditure is justified or whether or to what extent it should be modified or teminated;

(2) the terms "committee sunset review agenda" and "committee review agenda" mean a resolution setting forth a proposed schedule for the review of specified Federal programs or tax expenditures or both by a legislative committee of the House of Representatives or the Senate, developed and submitted as provided in section 5(a);

(3) the terms "consolidated sunset review agenda" and "consolidated review agenda" mean a concurrent resolution setting forth all of the committee sunset review agendas for the House of Representatives or the Senate (or both) in any Congress, developed and adopted as provided in sections 5 and 6;

(4) the term "legislative committee" means a permanent committee of the House of Representatives or the Senate which has legislative jurisdiction over one or more Federal programs or tax expenditures under the applicable rules of the House or the Senate, as the case may be;

(5) the terms "congressional inventory of Federal programs", "program inventory", and "inventory"

mean a listing of all Federal programs and tax expenditures by legislative committee jurisdiction, developed and maintained as provided in section 4;

(6) the terms "program" and "Federal program" mean any combination of Federal activities or laws in an identifiable subject area (and, in the case of a regulatory program, any program administered by an agency which involves the protection of the public interest or the determination of the rights, privileges, benefits, and obligations of private persons through the issuance or enforcement of rules or licenses, or the conduct of adjudications), as classified in the congressional inventory of Federal programs;

(7) the term "tax expenditure" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability; and

(8) the terms "permanent budget authority" and "permanent statutory authority" means budget or statutory authority which is provided for a program or tax expenditure (as the case may be) for an indefinite period of time or an unspecified number of fiscal years

which does not require recurring action by the Congress.

CONGRESSIONAL INVENTORY OF FEDERAL PROGRAMS

SEC. 4. (a)(1) The Committee on Rules of the House of Representatives and the Committee on Rules and Administration of the Senate shall jointly develop and maintain an inventory of all Federal programs and tax expenditures, in accordance with this section.

(2) The inventory shall classify all Federal programs and tax expenditures according to the jurisdiction of the various legislative committees of the two Houses. Programs which are concurrently within the jurisdiction of two or more committees of either House shall be classified under each such committee, with appropriate cross-references to the other committee or committees having jurisdiction. The inventory may contain any additional classifications which, in the judgment of the Committee on Rules and the Committee on Rules and Administration, will assist the Congress in evaluating the relationships among Federal programs and between Federal programs and related tax expenditures.

(3) Not later than the beginning of the Ninety-eighth Congress, the General Accounting Office, after consultation with the appropriate legislative committees and the Congressional Budget Office, shall submit a draft inventory to the Committee on Rules of the House and the Committee on

Rules and Administration of the Senate. The Committee on Rules and the Committee on Rules and Administration shall review the draft inventory and promptly notify each legislative committee of the programs and tax expenditures which are classified within its jurisdiction. Any legislative committee may propose revisions in the draft inventory with respect to the programs and tax expenditures which are classified within its jurisdiction (in a communication to the Committee on Rules or the Committee on Rules and Administration, as the case may be) at any time within thirty legislative days after such notification. The Committee on Rules, in consultation with the Speaker of the House and with the legislative committees involved, shall make any revisions in the draft inventory which may be necessary to reflect correctly the jurisdiction of the various committees of the House, basing such revisions on the rules and established precedents of the House; and the Committee on Rules and Administration, in consultation with the presiding officer of the Senate and with the legislative committees involved, shall make any revisions in the draft inventory which may be necessary to reflect correctly the jurisdiction of the various committees of the Senate, basing such revisions on the rules and established precedents of the Senate.

(4) After determining that all programs and tax expenditures are accurately classified according to the jurisdiction of

the legislative committees of their respective Houses, the Committee on Rules and the Committee on Rules and Administration shall jointly publish the program inventory in a single document covering all Federal programs and tax expenditures and all legislative committees in each House. The official name and identification number of each program and tax expenditure shall, for purposes of the inventory, be the same for both the House and Senate; but neither the Committee on Rules of the House nor the Committee on Rules and Administration of the Senate shall have any involvement in the classification of programs or tax expenditures to the jurisdiction of committees in the other House. The Committee on Rules and the Committee on Rules and Administration shall have joint responsibility for maintaining the inventory and assuring its availability for use by Members and committees.

(5) Not later than February 15 in the first session of each Congress, beginning with the Ninety-ninth Congress, the Committee on Rules and the Committee on Rules and Administration shall jointly publish an updated inventory of Federal programs and tax expenditures, in the manner and under the procedures specified in paragraphs (3) and (4) and in accord with the timetable provided for in this paragraph. At the beginning of each Congress, the Committee on Rules and the Committee on Rules and Administration shall each

notify every legislative committee of its House of all programs and tax expenditures which are proposed to be added to or stricken from such committee's jurisdiction as required by prior congressional action. Within fifteen calendar days after such notification, any legislative committee may propose revisions in the draft inventory with respect to the programs and tax expenditures which are classified within its jurisdiction (in a communication to the Committee on Rules or the Committee on Rules and Administration, as the case may be).

(b) The inventory shall include (with respect to each Federal program and each tax expenditure)—

(1) the official name by which the program or tax expenditure is to be referred to;

(2) a unique identification number;

(3) the agency (and, if applicable, the subdivision thereof) which is responsible for administering the program or tax expenditure;

(4) citations to the principal statutes, regulations, and rulings governing the program or tax expenditure;

(5) the year in which the program or tax expenditure was most recently reviewed under this Act (or, if it has not been so reviewed, the year in which it was initiated or most recently authorized), and a special and easily identifiable designation of each program or

tax expenditure operating under permanent budget authority or permanent statutory authority (as the case may be);

(6) in the case of a program, the amount authorized, the budget authority provided, and the budget outlays made under the program during the most recently completed fiscal year; and

(7) in the case of a tax expenditure, the estimated revenue loss during the most recently completed fiscal year.

(c) The General Accounting Office shall maintain and publish (as a separate document) a supplement to the inventory which shall be cross-referenced to it and shall include (with respect to each Federal program and tax expenditure)—

(1) a brief description of the purpose or purposes of the program or tax expenditure;

(2) the functional and subfunctional category to which the program or tax expenditure is assigned in the Budget of the United States Government;

(3) information which would facilitate comparisons between the costs and effectiveness of that program or tax expenditure and other Federal programs or tax expenditures having similar or related objectives;

(4) in the case of a Federal program—

(A) the period of time for which the enactment of budget authority is authorized (and, if applicable, the date when the authorization expires);

(B) the amounts of new budget authority authorized and provided for the program for each of the three most recently completed fiscal years and, where applicable, for each of the three succeeding fiscal years;

(5) in the case of a tax expenditure, its expiration date, if any, and the estimated revenue loss incurred or to be incurred during each of the three most recently completed fiscal years and during each of the three succeeding fiscal years; and

(6) in the case of a regulatory program, a list of the major regulatory activities and citations to the regulations promulgated thereunder.

(d) Consistent with the discharge of the duties and functions otherwise imposed on them by law, the Congressional Budget Office and the Congressional Research Service shall provide any assistance which may be requested in connection with the preparation and updating of the program inventory and the supplement thereto.

CONGRESSIONAL AGENDA FOR THE SUNSET REVIEW OF FEDERAL PROGRAMS

SEC. 5. (a)(1) Each legislative committee of the House of Representatives and the Senate, on or before March 1 in the first session of each Congress beginning with the ninety-ninth Congress, shall report a resolution setting forth an agenda for the sunset review (during such Congress) of selected Federal programs within its legislative jurisdiction and (in the case of the Committee on Ways and Means of the House and the Committee on Finance of the Senate) of selected tax expenditures. In the case of tax expenditures, the Joint Committee on Taxation shall assist the Committee on Ways and Means of the House and the Committee on Finance of the Senate in coordinating the development of their respective committee sunset review agendas. Each program and tax expenditure selected for the committee sunset review agenda shall be designated according to the official name and identification number provided for it under the congressional inventory of Federal programs developed under section 4. Such agenda shall specify each of the programs and tax expenditures with respect to which the committee proposes to conduct a sunset review and report legislation during such Congress pursuant to section 7.

(2)(A) The committee sunset review agenda reported by any legislative committee under paragraph (1) shall, to the extent practicable, provide for the review of related programs and of programs and related tax expenditures in the same budget subfunction, or of related regulatory activities, during the same Congress.

(B) To the maximum extent feasible, a committee shall give priority consideration to including in its agenda those programs and tax expenditures operating under permanent budget authority or permanent statutory authority and shall take care to ensure that such programs and tax expenditures are reviewed under the procedure established by this Act.

(3)(A) Each legislative committee of either House shall develop its committee sunset review agenda in consultation with any other committees of such House which exercise concurrent jurisdiction over any of the programs or tax expenditures involved, and in consultation with the committee or committees of the other House which exercise jurisdiction over such programs or tax expenditures, with the objective of assuring that any sunset review of a Federal program or tax expenditure by such legislative committee pursuant to such agenda will be conducted during the same Congress as the sunset reviews of that program or tax expenditure by all committees (in both Houses) which have legislative jurisdiction over such program or tax expenditure.

(B) If the committee sunset review agenda being developed by the Committee on Ways and Means of the House or the Committee on Finance of the Senate provides for the sunset review of a tax expenditure, such committee shall also consult with the committee or committees (in both Houses) having legislative jurisdiction over any related Federal program, with the objective of assuring that the sunset review of the tax expenditure and the sunset review of all related Federal programs will be conducted during the same Congress to the extent that the legislative schedules of the committees involved permit.

(4) The report accompanying each committee sunset review agenda submitted by a legislative committee under paragraph (1) shall contain a projection of the program and tax expenditure sunset reviews which such committee expects to conduct during the four Congresses immediately following the Congress in which the agenda is submitted, and shall indicate when such committee plans to review programs and tax expenditures operating under permanent budget authority or permanent statutory authority. In addition, in the case of the committee sunset review agenda reported by any legislative committee in the One Hundred and Fourth Congress and in the case of the agenda so reported in every fifth Congress thereafter, such report shall include a summary of the programs and tax expenditures which the committee has reviewed under this Act during the period of the five Congresses immediately preceding the Congress in which the

agenda is reported, and a summary of the programs and tax expenditures within its legislative jurisdiction which it has not reviewed under this Act during that period, with a statement explaining its reasons for not having reviewed any of the latter programs and tax expenditures which are not scheduled for review in the agenda so reported.

(5) It shall not be in order in either the House or the Senate to consider a primary expense resolution for any legislative committee in any Congress until that committee has reported its sunset review agenda for that Congress as provided in this subsection.

(b) The resolutions required to be reported under subsection (a)(1) shall be referred to the Committee on Rules in the House and to the Committee on Rules and Administration in the Senate. Within seven legislative days after all committee sunset review agendas have been referred to it under subsection (a)(1), the Committee on Rules of the House and the Committee on Rules and Administration of the Senate shall each incorporate such agendas (making only such changes as are necessary to assure the accuracy of the consolidated agenda) into a consolidated sunset review agenda covering all of the legislative committees of the House involved, and shall each report such consolidated agenda to its House in the form of a concurrent resolution (or, if a consolidated sunset review agenda in the form of a concurrent resolution has been received from the other House and referred to the committee, may instead report that resolution with an amendment striking out all after the resolving clause and inserting in lieu thereof a substitute which consists of the consolidated sunset review agenda for the other House (without change) plus its own consolidated review agenda. The report accompanying such consolidated agenda shall include a summary of the matters reported by the various legislative committees (in the Congress involved) pursuant to subsection (a)(4).

(c)(1) The consolidated sunset review agenda shall have a separate section for each legislative committee of the House or Senate with jurisdiction over one or more Federal programs or tax expenditures. Each such section shall read as follows:

"The Committee on   is hereby directed, on or before May 15 in the second session of the current Congress, to report a bill or bills modifying, continuing, or terminating the following Federal programs or tax expenditures:
                    ."; with the first blank being filled in with the name of the committee which is to conduct the sunset review or reviews, and with the second blank being filled in with the official name of each of the programs and tax expenditures which such committee is to review during the Congress in which the consolidated sunset review agenda

is adopted. The consolidated agenda shall not contain any matter other than that provided for in this subsection. In all questions involving jurisdiction or official program name which may arise in either House, the program inventory shall be controlling unless that House makes a specific determination to the contrary.

(2) If a committee fails to report a committee sunset review agenda, or if it reports an agenda in which it recommends that no programs or tax expenditures within its legislative jurisdiction be subject to a sunset review, the Committee on Rules (in the case of a House committee) and the Committee on Rules and Administration (in the case of a Senate committee) shall nevertheless include an appropriate section for such committee in its consolidated sunset review agenda, and, notwithstanding the provisions of section 6(g)(4), it shall be in order in the House involved to consider any amendment to the consolidated sunset review agenda in the Ninety-ninth or One Hundredth Congress which would provide for the review of any program or tax expenditure by such committee, provided such amendment otherwise conforms to the requirements of section 6(g).

(d) Each program and tax expenditure set forth in the committee sunset review agenda submitted by a legislative committee under subsection (a), in the consolidated sunset review agenda reported under subsection (b) or any amendment thereto, or in any conference report thereon under section 6 shall be designated by its official name as set forth in the congressional inventory of Federal programs; and in reporting the consolidated sunset review agenda to their respective Houses, the Committee on Rules and the Committee on Rules and Administration shall assure that each program and tax expenditure listed therein is so designated. It shall not be in order in either the House of Representatives or the Senate to consider a consolidated sunset review agenda or any amendment thereto (whether in the initial consideration of the agenda or in the conference report thereon) unless each program and tax expenditure included in the agenda or amendment is designated by its official name as set forth in the inventory.

PROCEDURES FOR THE ADOPTION OF THE CONSOLIDATED SUNSET REVIEW AGENDA

Date for Adoption of Consolidated Sunset Review Agenda in House of Representatives and in Senate

SEC. 6. (a) The consolidated sunset review agenda for any Congress shall be adopted in the House of Representatives and in the Senate no later than March 30 in the first session of that Congress.

Procedure in the House of Representatives

(b)(1) After the Committee on Rules of the House of Representatives has reported a consolidated sunset review agenda under section 5(b), it shall be in order at any time to move to proceed to the consideration of the agenda. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2)(A) General debate on any consolidated sunset review agenda in the House of Representatives shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(B) Consideration of any consolidated sunset review agenda by the House of Representatives shall be in the Committee of the Whole, and the agenda shall be read for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives.

(C) After the Committee rises and reports the consolidated sunset review agenda back to the House, the previous question shall be considered as ordered on the agenda and any amendments thereto to final passage without intervening motion. Notwithstanding the preceding provisions of this subparagraph (and the provisions of subsection (g)), it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing one or more sunset reviews scheduled in the agenda as so reported, without regard to the point at which any such scheduled review appears in the agenda, to the extent necessary to achieve consistency with any other sunset review scheduled in the agenda.

(3) Motions to postpone, made with respect to the consideration of any consolidated sunset review agenda, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) If, after the House has agreed to its own consolidated sunset review agenda, a consolidated sunset review agenda which has been received from the Senate is taken from the Speaker's table for the purpose of adding the text of the consolidated sunset review agenda of the House as so agreed to, the addition of the House agenda shall take the form of an amendment which strikes out all of the Senate agenda after the resolving clause and inserts in lieu thereof a substitute consisting of both the Senate agenda (without change) and the House agenda (as so agreed to).

(5) Except to the extent specifically provided in the preceding provisions of this subsection (and the provisions of subsection (g)), consideration of any consolidated sunset

review agenda and amendments thereto in the House of Representatives shall be governed by the rules of the House which are applicable to other bills, resolutions, and amendments in similar circumstances. Appeals from the decisions of the Chair relating to the applications of the Rules of the House of Representatives to the procedure relating to a consolidated sunset review agenda shall be decided without debate.

Procedure in the Senate

(c) [To be supplied.]

Matters in Disagreement Between House and Senate

(d)(1) The consolidated sunset review agenda shall not be considered to have been finally adopted by the Congress (even though the text of the agenda as it applies to either House separately is not otherwise in dispute) so long as there are matters in disagreement between the two Houses within the meaning of this subsection.

(2) If a consolidated sunset review agenda, after it has been agreed to in both the House of Representatives and the Senate, schedules one or more programs or tax expenditures for review (during the Congress involved) by a legislative committee of one House but not by a legislative committee of the other or provides for a more limited review of any program or tax expenditure in one House than in the other, the scheduling of such program or tax expenditure for such

review or the imposition of such limitation shall be deemed for all the purposes of this section to constitute a difference between the House and Senate versions of the agenda and a matter in disagreement between the two Houses.

Conference Procedure

(e)(1) If a conference between the two Houses is necessary to resolve all of the differences between the House and Senate versions of a consolidated sunset review agenda, the rules and procedures of each House which generally govern conferences and conference reports on concurrent resolutions shall be applicable in that House, except as otherwise specifically provided in this act.

(2) As soon as practicable after both Houses have appointed conferees to a committee on conference on a consolidated sunset review agenda, the Committee on Rules of the House of Representatives and the Committee on Rules and Administration of the Senate shall each notify each legislative committee of its House of any of the differences between the House and Senate versions of the agenda which involve or affect programs within the jurisdiction of such legislative committee; and throughout the conference the Committee on Rules of the House and the Committee on Rules and Administration of the Senate shall keep each such legislative committee fully informed with respect to the progress being made in resolving those differences.

Special Provisions With Respect to Conference Procedures in the Hosue and Senate

(f)(1) In the consideration of the conference report on any consolidated sunset review agenda in the House of Representatives, a motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(2) [Senate conference procedure—To be supplied.]

Certain Amendments and Changes Prohibited

(g) Notwithstanding any other provision of this section (except the second sentence of subsection (b)(2)(C) or of the Rules of the House involved, it shall not be in order in either the House of Representatives or the Senate to consider an amendment to a consolidated sunset review agenda, or to consider a conference report on such an agenda which includes a change from the agenda as it was intially agreed to by that House—

(1) if the amendment or change would require review of a Federal program or tax expenditure by a committee of either House which does not have legislative jurisdiction over such program or tax expenditure under the inventory;

(2) if the amendment or change would have any effect beyond (A) adding to the consolidated sunset

review agenda a provison for the review of an additional program or tax expenditure or (B) eliminating from the agenda a provision for the review of a program or tax expenditure specified therein;

(3) in the case of an amendment, if the amendment would provide for the review of a program or tax expenditure which has been reviewed under this Act in any of the three preceding Congresses; or

(4) in the case of an amendment (during the Ninety-ninth or One Hundredth Congress), if the amendment would provide for the review of any program or tax expenditure not included in the consolidated sunset review agenda as reported in that House.

Restriction on Adjournment Sine Die

(h) Beginning with the Ninety-ninth Congress, it shall not be in order in either the House of Representatives or the Senate to consider any resolution which provides for the adjournment sine die of either House during the first session of any Congress until a consolidated sunset review agenda for the Congress involved has been finally adopted.

CONDUCT OF SUNSET REVIEWS BY LEGISLATIVE COMMITTEES

SEC. 7. (a) Not later than May 15 in the second session of each Congress, each committee of the House or Senate shall report a bill or bills modifying, continuing, or terminating each program or tax expenditure which it has been directed to review under the consolidated sunset review agenda adopted by the Congress during the first session of that Congress. Prior to reporting any such bill, the committee shall undertake and carry out a study and evaluation of the program or tax expenditure involved which is of sufficient scope and thoroughness to provide an informed basis for the committee and the House or Senate to determine whether the continuation of such program is justified, or whether or to what extent such program should be modified or repealed. If two or more committees have legislative jurisdiction over the same program, they may review such program jointly and submit a joint report with respect to such review.

(b) Each committee which under subsection (a) is required to report a bill modifying, continuing, or terminating a program or tax expenditure shall submit a report, to accompany such bill, setting forth the committee's findings and recommendations and its justification for modifying, continuing, or terminating the program or tax expenditure. Each such report shall include (but need not be limited to)—

(1) information on and analyses of the operation, costs, and results of the program or tax expenditure;

(2) an identification of the intended objectives and planned annual accomplishments of the program or tax

expenditure, and the problems or needs which it is intended to address;

(3) recommended changes in law to eliminate conflict or duplication with other programs or tax expenditures;

(4) an assessment of the cost effectiveness of the program or tax expenditure, compared to the estimated cost effectiveness of alternative methods for achieving the same purposes;

(5) information on the number and types of persons benefited or served by the program or tax expenditure, along with an assessment of the human and social benefits expected therefrom;

(6) information on the regulatory impacts of the program or tax expenditure; and

(7) an identification of and information on the measurements of accomplishment (using accomplishment indicators specifically appropriate to the particular program or tax expenditure involved) which the committee will consider annually in its regular oversight activities as an aid in determining whether the program or tax expenditure or its objectives require modification to meet changing circumstances and priorities.

(c) To the extent appropriate, legislation reported pursuant to subsection (a) should authorize the enactment of budget authority or provide statutory authority for sufficient periods of time to enhance oversight and the review and evaluation of Federal programs and tax expenditures.

ASSISTANCE TO COMMITTEES BY EXECUTIVE AND LEGISLATIVE AGENCIES

SEC. 8. (a)(1) Each department, agency, and instrumentality in the executive branch of the Government which is responsible for the administration of a Federal program or tax expenditure selected for sunset review in any Congress pursuant to this Act shall, not later than February 15 of the second session of that Congress, submit through the Director of the Office of Management and Budget, to the appropriate committees of the House of Representatives and the Senate, a report of its findings and recommendations with respect to each of the matters set forth in section 7(b). The Director of the Office of Management and Budget may add his comments on such findings and recommendations as he deems necessary and desirable to carry out the purposes of this Act.

(2) At or before the close of each year ending after the Congress in which a sunset review of a particular program or tax expenditure is conducted under this Act, each department, agency, and instrumentality in the executive branch of the Government responsible for the administration of such

Federal program or tax expenditure shall provide to the appropriate committees of the House of Representatives and the Senate, concise data on program performance based on the accomplishment indicators then being used (in accordance with the applicable provisions of the report most recently submitted in connection with such sunset review pursuant to section 7(b)(7) or otherwise) in such committees' regular annual oversight activities with respect to such program or tax expenditure.

(b) To assist in the review of any program or tax expenditure included in the consolidated sunset review agenda for a Congress, the department, agency, or instrumentality which administers such program or tax expenditure shall provide to each committee of the House of Representatives and the Senate which has legislative jurisdiction over such program or tax expenditure such studies, information, analyses, reports, and assistance as the committee may request.

(c) On or before August 1 in each odd-numbered year, the Comptroller General shall furnish to each committee of the House and Senate which has legislative jurisdiction over a program or tax expenditure selected for review in the most recently adopted consolidated sunset review agenda summaries of any audits and review of such program or tax expenditure which have been completed during the preceding six years.

(d) Consistent with the discharge of the duties and functions otherwise imposed on them by law, the Comptroller General, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service shall furnish to each committee of the House of Representatives or the Senate such information, studies, analyses, and reports as the committee may request to assist it in conducting sunset reviews of programs or tax expenditures under this Act.

RELATIONSHIP OF SUNSET REVIEW PROCEDURES TO PERFORMANCE OF OTHER LEGISLATIVE FUNCTIONS

SEC. 9. (a) Except as specifically provided in the preceding sections of this Act, nothing in this Act or in any procedure established by this Act shall affect in any way the authority of any legislative committee to review programs or tax expenditures within its jurisdiction and to report legislation modifying, continuing, or terminating such programs or expenditures, at such times and in such manner as it deems appropriate consistent with its authority and responsibilities under the rules of the House involved.

(b) Nothing in this Act shall affect in any way the exercise by any committee of the oversight functions vested in it by the rules of the House involved.

(c)(1) The provisions of this Act shall not apply to any program which is a foreign intelligence or counterintelligence program designated by the President as requiring protection from unauthorized disclosure.

(2) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall conduct such reviews and make such recommendations pursuant to the spirit of this Act as are consistent with the protection of foreign intelligence and counterintelligence programs from unauthorized disclosure.

RULES AMENDMENTS RELATING TO SUNSET REVIEW PROCEDURES

Jurisdiction of Committee on Rules

SEC. 10. (a)(1) Clause 1(q) of rule X of the Rules of the House of Representatives is amended by redesignating subparagraphs (3) and (4) as subparagraphs (4) and (5), and by inserting after subparagraph (2) the following new subparagraph:

> "(3) Consolidated sunset review agendas and the congressional inventory of Federal programs under the Sunset Review Act of 1981.".

Elimination of Biennial Report on Oversight Plans

(2) Effective immediately prior to noon on January 3, 1985, clause 2 of rule X of such rules is amended by striking out paragraph (c), and by redesignating paragraph (d) as paragraph (c).

Layover of Consolidated Sunset Review Agendas

(3) Clause 2(l)(6) of rule XI of such rules is amended by inserting after "or other order of business" in the first sentence the following: ", or in the case of a consolidated sunset review agenda under section 5 of the Sunset Review Act of 1981".

(b) [Senate rules changes—To be supplied.]

EXERCISE OF RULEMAKING POWERS

SEC. 11. The provisions of this Act (except the first sentence of section 4(a)(3), section 4(c), and section 8) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

EFFECTIVE DATE

SEC. 12. Except as otherwise specifically provided, this Act and the amendments made by this Act shall become effective immediately prior to noon on January 3, 1983.

IV

97TH CONGRESS
1ST SESSION

H. RES. 218

To provide authority for the creation of an experimental twenty-one-day period commencing in January 1982 during which standing committees of the House of Representatives would engage in the oversight of programs and laws within their jurisdictions in lieu of the consideration of legislation.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 1981

Mr. MOFFETT submitted the following resolution; which was referred to the Committee on Rules

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RESOLUTION

To provide authority for the creation of an experimental twenty-one-day period commencing in January 1982 during which standing committees of the House of Representatives would engage in the oversight of programs and laws within their jurisdictions in lieu of the consideration of legislation.

Whereas the authority of Congress to oversee Federal programs and to investigate the manner in which the executive branch executes existing laws is established in the Rules of the House of Representatives;

Whereas timely and periodic investigations by Congress insure that programs which it has enacted are run efficiently, economically, and in accordance with congressional intent;

Whereas the appropriations, authorization, budget, and reconciliation processes have consumed an ever-larger share of congressional attention, proportionately less time has been devoted to effective oversight and investigations by the committees of Congress;

Whereas a legislative moratorium in which action on bills and resolutions before Congress is substantially curbed would enable the committees of Congress to devote their energies to effective oversight and investigations; and

Whereas Congress would be well-served by implementing such a legislative moratorium demonstration project to assess the enhancement which such a moratorium could contribute to its oversight abilities: Now, therefore, be it

Resolved, That the Speaker, after consultation with the minority leader of the House of Representatives, shall designate a period of twenty-one consecutive calendar days beginning within seven calendar days of the commencement of the second session of the Ninety-seventh Congress during which each standing committee of the House of Representatives (other than the Committee on Appropriations, the Committee on the Budget, the Committee on Rules, and the Committee on Standards of Official Conduct) shall review and study the application, administration, execution, and effectiveness of those laws or parts of laws, the subject matter of which is within the jurisdiction of such committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution of such laws in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee.

SEC. 2. During the twenty-one-day period referred to in the first section of this resolution—

(1) it shall not be in order in any standing committee of the House of Representatives to which the first section of this resolution applies to consider any bill or resolution,

(2) except as provided by section 3, it shall not be in order in the House of Representatives to consider any bill or resolution or the report of any committee of conference, and

(3) except as provided by section 3, House conferees on any bill or resolution in conference between the House of Representatives and the Senate may not confer on such bill or resolution.

SEC. 3. The Speaker, after consultation with the minority leader, may for good cause and on a case-by-case basis permit exceptions to clause (2) or (3) of section 2 of this resolution.

Mr. **Long**. Mr. Frost, have you any statement you would like to make?

Mr. **Frost**. Nothing other than I concur with the chairman as to the importance of this matter, and look forward to the testimony.

Mr. **Long**. The format we shall follow is for each witness to present brief oral remarks accompanied by a written statement which, without objection, will be included in full in our record. I would encourage the witnesses to remain to participate in the questioning and discussion. I think we could all get a great deal more out of it that way, in effect creating a panel.

As our first witness, we have Hon. James J. Blanchard of Michigan. I am happy to welcome you again before this subcommittee. At this time I wish to acknowledge all your fine work as a veteran advocate of sunset mechanisms, and the assistance you have given to this subcommittee in its work on that subject.

Will you please proceed in your own manner.

STATEMENT OF HON. JAMES J. BLANCHARD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. **Blanchard**. Thank you, Mr. Chairman.

First of all, I want to commend you for continuing to look at the issue of program review, in view of the actions taken this year by the Reagan administration. I do not mean to direct that as a partisan barb, because I think it is inaction by Congress, Democrats as well as Republicans, and perhaps most especially the inability of Democrats to deal with spending, which has brought on the current budget problems.

We are going to hear from Congressman Panetta, who probably understands this point better than everybody. After all his work, with one wave of the wand at 11 o'clock at night, we were rendered an invisible branch of Government with regard to spending.

We have talked about program review for a number of years. I have to say, hats off to you, Mr. Chairman for putting up with people like me and all those others who want to find some orderly process for spending review. It is a difficult subject and everybody talks in the abstract about wanting to do it, but when you get down to the moment of truth—many people would prefer not to deal with it.

Let me reiterate for the record why I think we need something like H.R. 2, or perhaps a blend between H.R. 58 and H.R. 2.

Back in 1975, I was a freshman Congressman and began looking at the structure of the Federal budget. At least two things quickly became clear: No. 1, there was no process for orderly review of all Federal spending programs; and No. 2, two-thirds of the Federal budget was permanently authorized, and only one-third was subject to regular review.

My thesis is that we in Congress have been eclipsed by reconciliation by a President. What is happening now is far more radical and far more dangerous than the wildest, toughest sunset law that could have ever been drafted. So, I am pleased to no longer be called the troublemaker in some quarters by proposing sunset.

There are five essential elements to H.R. 2.

First, that all Federal spending programs are put into fixed schedules over a five-Congress or 10-year schedule. Essentially, each program has to be reviewed at least once over a 10-year period. If it is not renewed, it expires. It is subject to expiration just as the one-third of the spending programs are already subject to expiration.

Second, tax expenditures are included. This looms much larger in the sunset debate this year because of the increasing use of the tax code to do things which we have done historically through direct spending programs.

Third, all spending programs and tax expenditures must be reviewed by Congress in relation to each other.

Fourth, H.R. 2 provides that the authorization for a program will expire, or that a tax expenditure will go out of existence, if it is not expressly renewed at the time required by the fixed sunset schedule.

Fifth, we have a mechanism in H.R. 2 to allow a privileged motion to bring onto the floor of the House, a renewal or reauthorization of a program which a committee is trying to kill rather than fully review—as intended by H.R. 2.

About two-thirds of the programs are permanent; the other one-third expires. There is no reason why all programs should not be treated the same. We do, admittedly, exempt in our bill, not from orderly review or examination, but merely from expiration, a few things, and some big-ticket items, like social security and Federal pensions. There is no one who can seriously claim they are going to allow them to expire, or somehow take money from social security, and redirect it towards other programs, such as defense.

Mr. LONG. Are you sure?

Mr. BLANCHARD. At least not under our bill. But the point is, I am glad, several years ago, we provided that the pension-type programs would be exempt from expiration, not from review, but only from expiration.

Whatever we do, I am not going to argue that H.R. 2 as currently written is perfect or that it has to be H.R. 2 and not H.R. 58 or another similar bill, but I think if we are to deal with setting forth an orderly process to deal with the budget, it has to have teeth.

So, I would distinguish H.R. 2 from a lot of the other bills—H.R. 2 is not designed to just be oversight. Yes, we think it will encourage oversight in many instances, but we do not require an elaborate amount of oversight. We require that all spending programs be seriously considered. You do not have to have studies, hearings, or countless reports, you either want it or not. That is the first tier of decisions. If you want to select certain programs for in-depth review, you can do that.

H.R. 2 is offered up as a way to review and reshape the budget. Any process we institute has got to promise some results. We do not want to create a whole new process of mere oversight that leaves us right where we started when we finish.

Now, there are two or three other things, then I will conclude.

First of all, if you read any of the recent literature on problems of our country, with our industry, our economic system or our inability to cope or grapple with the changes going on in this world, one of the problems we have is that we are not able to adapt to change with the speed Americans used to be able to. We have begun to fear change and adhere more to security than any free enterprise rhetoric can admit.

One of the problems we are having, especially if you compare us with the Europeans and the Japanese, we are not able to disinvest, in order to invest in new techniques or new programs. I think the Federal budget is no different in this respect, and maybe better than the industries I see in the heartland of America which I represent.

We have a hard time looking ahead, changing, adapting. One reason is adherence to the past. You have to have a process to review past decisions because our resources are limited. We all believe in growth, but our resources are still limited, as our President is finding out.

We need to review the priorities of the thirties and forties and be able to phase out outmoded programs in an orderly, humane, compassionate fashion and redirect the money we collect in tax revenues to things that the public and its representatives feel will be valuable investments for the future, whether solar energy, student loans, or jobs. I think we need a process for spending review to do that every bit as much as we need to see our industries, labor unions, and universities doing the same thing. Otherwise, we will be at each other's throats grappling with the ever-changing world.

Tax expenditures have become increasingly important. I know it is in your bill, Mr. Chairman. It is in H.R. 2. We started with tax expenditures representing a couple hundred billion dollars. Last time we checked it is $300 billion. All the time, someone wants to offer a tax break, a tax credit, a tax preference, an accelerated this or that, all with the best of intentions, some of which are great ideas, and I have supported them. But it is simply a back-door way of doing what you are afraid to do openly. It is a way to convince people you really are not spending money. In the technical sense, you are spending my money if you give a break because my taxes will remain high or go up, because you get a preference or your company gets a preference.

And, there are many instances where it can be demonstrated that direct spending is more efficient.

I like the idea of self-executing policies, and the tax code is one of the great ways of doing something where you do not want or need a bureaucracy. But we need a process to decide, on a case-by-case basis whether a tax break is needed, or something different, such as direct spending, or loans and loan guarantees, or whether we should simply let the private markets work their will. I think we have found ourselves looking too much to the tax code, and we need to find a way to convince our colleagues and the public that this is not free money. Taxes of the person whose income is between $15,000 and $50,000 will go up or remain high because of tax expenditures that benefit others.

Finally, let me simply thank you again for your patience and your interest and conclude by stating I am absolutely convinced we need something like H.R. 2, to restore sanity to the budget process. It is time, as Chairman Bolling and Chairman Long have said, for all of us to assert our proper roles in the Congress and become watchdogs of the budget, for the taxpayers we represent.

[Mr. Blanchard's prepared statement follows:]

PREPARED STATEMENT OF HON. JAMES J. BLANCHARD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, I would like to thank you for giving me this opportunity to testify as the Subcommittee on the Legislative Process resumes its hearings on congressional oversight.

Mr. Chairman, your long and hard work, and your dedication in matters concerning legislative oversight deserves the highest admiration, and I salute you for your efforts. As sponsor of H.R. 2, the Sunset Act of 1981, one of the bills before this subcommittee, I look forward to continuing to work with you in the weeks ahead.

These new hearings could not have come at a more important time. Recent enactment of the Omnibus Budget Reconciliation Act of 1981—while a great political triumph for President Reagan—nevertheless raises troubling questions about the role of Congress in shaping the Federal budget and its priorities. The roles Congress should have in shaping the budget is clear: that of a coequal partner with the President in looking at the Federal Government and Federal spending in the context of the overall economy, in having an influence in setting the priorities of the Federal Government, and in helping to decide what gets funded and what does not.

However, this year, use of the reconciliation process produced quick and deep cuts in many important programs, and countless changes in underlying law, almost overnight, without any of us having the slightest opportunity to examine their consequences.

We can all recall the haste with which the House of Representatives adopted Gramm-Latta II, the administration-supported substitute to the reconciliation bill. And, however we may feel about the President's program, we have to recognize that Gramm-Latta II was written, presented, and passed too hastily and amid too much confusion. Our action on Gramm-Latta II underscores the depths to which our role in the budget process has sunk—how Presidential persuasion has come to eclipse Congress in dealing with Federal spending.

This year, the reconciliation process exemplified legislative action in blind faith—approving a program in ignorance of its elements or its consequences. Reconciliation represented nothing short of congressional abdication of its rightful place in the budget process. Full committee Chairman Bolling has written that reconciliation this year amounted to "a gross distortion of the intent of those who wrote the Constitution and the Bill of Rights, as well as the intent of the 1974 budget act".

Let me clarify something. I do not mean these remarks to be partisan, because I believe both political parties are at fault here. Both Democrats and Republicans are responsible for Congress not having any real input in the budget process. For too long both Democrats and Republicans have neglected the calls for spending reform, calls which have come for years from both outside economists and from a handful of Members of Congress, crying, it seemed, in the wilderness.

Meaningful spending reform has long been needed. For years, Congress has needed a process to allow for a serious evaluation of budget priorities, a process to intelligently determine what programs have outlived their usefulness, and which programs deserved to continue. The failure of Congress to have such a process in place led us to the panic-stricken and troublesome use of reconciliation this year.

It is my firm belief that meaningful spending reform would have made this year's budget hysteria unnecessary.

Of course, to regain its role in shaping the Federal budget, Congress must improve its legislative oversight procedures. Your bill, Mr. Chairman, H.R. 58, Mr. Lott's resolution, House Resolution 100, and other oversight proposals have a great deal to commend them. With all due respect, however, I feel that we must look long and hard at supposed reforms that may add more form than substance. H.R. 2, the Sunset Act of 1981, will provide for greater and better legislative oversight, but it is much, much more than that. H.R. 2 would establish a complete spending review and priority determination system. H.R. 2 does not stop with the issue of how programs currently in place are functioning, but goes beyond that, and forces Congress to ask the critical question of whether any given Federal program or tax expenditure should be continued at all.

I first came to the House of Representatives in 1975, and each year since then I have sponsored sunset legislation. At the same time, former Secretary of State Muskie, while a U.S. Senator, sponsored sunset legislation in that body. In 1978, Senator Muskie's sunset bill passed the Senate by a nearly unanimous vote. This year, the sunset bill I introduced has 139 cosponsors.

What Secretary Muskie said about sunset in 1976 remains true today: Sunset, he testified, "Offers one of the few chances we may have to locate scarce resources that are not now used effectively—and to redirect those resources where they are needed most. * * * Without such an effort, I fear that we simply may not have the reserves we need—either in the budget or the public's trust—to pursue a legislative agenda that is changing with the Nation."

Mr. Chairman, in the Zero-Sum Society, Lester Thurow pointed out how hard it is for Americans in comparison with other industrialized countries to shift from old, outmoded investments and move into new investments, new industrial techniques, new ways of doing business. The same is true with the Federal budget. We do not yet have in place a way to weed out the old and put our resources into new efforts, programs and policies to meet the needs of a new generation. Strong sunset legislation will provide that opportunity.

H.R. 2 has five features that both complement each other and are essential for the kind of meaningful reforms that will allow Congress to regain its role in the budget process, and make needed improvements in how and for what the Federal Government spends money. These five features are:

(1) A fixed schedule under which virtually all Federal spending programs are reviewed at least once every 10 years;

(2) A requirement that tax expenditures be subject to sunset review just as spending programs;

(3) A requirement that all related programs and tax expenditures be reviewed during the same Congress and in relation to each other;

(4) A provision that the authorization for a program will expire, or that a tax expenditure will go out of existence, if it is not expressly renewed at the time required by the fixed sunset schedule; and

(5) A provision that allows for privileged consideration of a program scheduled for review under the sunset process, but which is being bottled up by a hostile committee intent on killing the program rather than allowing Congress to consider it.

Let me take up these features in greater detail:

First, H.R. 2 establishes a fixed schedule under which virtually all spending programs are scheduled for review at least once every ten years. According to the Congressional Budget Office about two-thirds of all federal spending is permanently authorized. It is important that Congress have an opportunity to evaluate this part of the budget just as it does with the one-third that does not have a permanent authorization. And, it is important that the sunset bill we enact fix the schedule for review. Any sunset proposal without a fixed schedule would make it far too easy to leave popular programs off any agenda that must be created anew each year or each Congress. And a sunset procedure that invites such abuse will not be effective. It will in fact provide more ammunition for those who regard Congress as unwilling to take a hard look at the budget. It would make quick-fix last-minute budget slashing, through reconciliation or impoundments or some other process, more rather than less likely.

H.R. 2 expressly requires review of tax expenditures. We all know what tax expenditures are: The income deductions, exclusions and tax credits added to the Internal Revenue Code in order to achieve a public policy objective. Prior to enactment of this year's tax bill, some $300 billion was allocated each year in tax expenditures. This year's budget cuts and tax cuts reveal a deeply-held policy of the current administration: to eliminate direct on-budget spending programs, and put in their place indirect Federal subsidies to businesses and individuals through the tax code.

This administration's strong belief that the Internal Revenue Code should be the tool to effectuate public policy is but the latest sign that Congress should expressly require their review in sunset legislation.

Last winter, before the Banking Committee's Subcommitte on Economic Stabilization, which I chair, Professor Robert Eisner of Northwestern University gave testimony that reaffirmed what many experts, dating at least back to the work of Professor Stanley Surrey, that tax expenditures are manifestly less efficient than direct on-budget spending programs. In short, tax expenditures in many instances cost the Federal Government more money, and are less successful in achieving their goals, than direct spending programs.

I am not going to sit here and tell you that all tax expenditures should be eliminated. But it is clear that all tax expenditures must be looked at carefully, and regularly. Review of tax expenditures must be expressly required by any sunset process we put in place; we cannot allow any future Congress enamoured of tax breaks to ignore their budgetary implications.

H.R. 2 also mandates that all related direct spending and tax expenditures be reviewed during the same Congress. Only this way can we effectively determine which programs or tax breaks are useful and which are out-of-touch with present day conditions. And H.R. 2 provides that all authorizations and tax expenditures not expressly extended at the required time will expire. Only through this automatic expiration feature—putting the burden on a program or tax expenditure's defenders—can we ensure that sunset will be meaningful. Remember, we must be on guard that any oversight improvement or spending reform we put in place will have substance: Sunset without automatic expiration or something similar will be sunset without meaning, and sunset without meaning plays right into the hands of those that feel Congress will never get a handle on the Federal budget in an orderly and rational fashion.

For those cases when a program's authorization is needed during a given Congress, but reauthorization legislation is being bottled up by a hostile committee, H.R. 2 provides for privileged consideration by the full House of Representatives or Senate. This "expedited procedures" provision, section 505 of H.R. 2, will enable the full House and Senate to fully evaluate all programs and tax expenditures scheduled for sunset review.

In conclusion, let me reiterate my sincere admiration for the many years you have studied congressional oversight and sunset. I am sure that we can all agree with the need to find ways to bring Federal spending under control and at the same time to restore the proper role of the legislative branch of the Government into the budget process. We as Members of Congress are the watchdogs for the taxpayers, and we need to put in place an orderly process to review Federal spending that permits us to fulfill our responsibilities in fashioning the budget.

We cannot allow ourselves to become the doormats for any President, no matter how personally popular or correct in his or her programs. We owe our constituents and our institution meaningful spending reform. And that is why I remain convinced that legislation along the lines of H.R. 2 is critically needed: sunset with a fixed schedule, sunset with tax expenditures clearly covered, sunset with an expiration feature—in short, sunset legislation with teeth. Meaningful sunset legislation should be enacted as soon as possible.

Again, let me say that I look forward to working with you, and with this subcommittee, in the weeks ahead. I will be happy to take any of your questions.

Mr. LONG. Thank you. Your comments as to tax expenditures were appropriate. With respect to the last tax bill, what we did, in effect was create a market for the tax losses and allow the various corporations to sell those tax losses. Pretty soon, we will have to have a tax loss commodity exchange. This was one of the most ridiculous things in a ridiculous piece of legislation.

Our next witness is the Honorable Leon E. Panetta of California. Mr. Panetta is owed a debt of gratitude by all House Members for his diligence and dedication in riding herd on the reconciliation process for the House Budget Committee.

After that experience, you probably feel about reconciliation like I do about my bypass surgery: We both know more about those things than anybody who is a sane person ought to know. But we are deeply indebted to you. We know you did a yeoman's job and we appreciate it. We are eager to learn from your experience, Leon.

STATEMENT OF HON. LEON E. PANETTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. PANETTA. Thank you, Mr. Chairman. Thank you for continuing these hearings on what I think is becoming essential reform that is going to have to take place or else, very frankly, this whole thing is going to pass the Congress by.

In the last 5 years we have debated the needs for reforms in this area, whether sunset, biennial budgeting, or some other kind of approach while we have talked about the need to do something, very frankly what is happening today is leaving us in the dust. There will not be much left to sunset or relevance to oversight the way things are going. I think as a consequence we have a situation that is very similar to what happened in California, with proposition 13.

The State legislature kept talking about the need to reform property tax laws in California and kept having hearings on various proposals for reform, and it kept going on and on and the public said, "To hell with it, they are not going to do anything."

Then eventually, somebody thought up a reform, put it on the ballot, and lo and behold it won. The funding base for the government was slashed. It is happening today in terms of the Federal Government, and we had better wake up to that fact or else. As I said, whatever we put in place will not be very relevant because there will not be a lot that will be subject to our oversight.

So, I really urge you not only to have these hearings, but I think it is very important to try to move some legislation in this session of Congress to try to deal with this matter.

When I came to the Congress, 5 years ago, I was not on the Budget Committee but I felt that we simply had to provide additional time for committees to do oversight. We were handling 20,000 pieces of legislation introduced in each session of Congress. We could not work on new legislation and appropriations at the same time. We were trying to determine whether money provided for programs was used effectively. There was very little being done by committees on oversight. Although we have oversight committees, very few were spending much time on that task.

So, the consequence is that the public got sick and tired of that and I think, supported, essentially, the mandate to cut back.

Nobody particularly cares where they cut back; they just want to see a cutback. That, I think, is the tragedy of what we are seeing today, that it is not being done carefully, not being done with consideration or with an understanding of what the consequences will be, and we will regret a lot of the decisions being made.

That is our responsibility as Members of Congress, to try to assure that careful decisions are being made and we are not slashing away for the sake of slashing away.

Today I think it is more relevant that we try to implement some process that allows time for greater consideration..

I have recommended this because I think we need additional time to make decisions. I think we need more stability in terms of our budget process. I think we fail to plan ahead. We are beginning to operate like the city of New York, dashing around from crisis to crisis without long-range planning of where we want this Government to go. For that reason we need to provide ourselves with the time to look at these issues.

The reforms that I mentioned, whether it is the biennial budgeting, sunset, or what have you, are not a panacea. We will not answer all our problems by going into sunset laws or biennial budgeting. I recognize that and I think that ought to be made clear.

We are still very much a legislative body, where if we have the opportunity to play games, we will play games. But the reality is that we need to establish some framework. Time alone is obviously not going to be the answer, but very frankly, any other reforms you institute, without a sufficient balance of time will not work.

There are two things that have to be considered in the terms of reform in this area.

One is the nature of the budget process itself. We developed the budget process as one of these disciplines to try to, within a year, to develop a framework where we would develop the first budget resolution, then the second, then institute reconciliation if necessary, and then try to wrap it all up by September 15 in a final resolution. We are at September 18; there have not been any hearings in the Budget Committee on a second budget resolution. The same is true in the Senate.

Last year, if I might remind you, we did not put a second budget resolution in place until sometime in November.

So obviously we are bypassing the timeframes, and as much as we admire the budget process it, as a discipline, is slowly being eroded. The first budget resolution is obviously becoming the key document; reconciliation follows on the first budget resolution. There is not, frankly, a hell of a lot of fight left in Members as to the second resolution. It may be that we should establish the first budget resolution as "The Resolution," combine it with reconciliation, then tie budget actions to that resolution.

Even under the present system we usually develop a third budget resolution, which is then attached to the first budget resolution for the next year. In that third budget resolution all hell breaks loose, because by that time we have increased the deficit and nobody is focusing on the goals established in the first budget resolution.

Reconciliation is an example of how that budget process is being eroded. Reconciliation was intended as a tool of the budget process to enforce decisions contained in the resolution. I think it can be a very effective tool and a necessary tool.

If you make and establish goals in the budget resolution that do not have any teeth in them, then you very well may not have a budget process. You need to have some teeth in that process, and that is what reconciliation is all about. Reconciliation has become a Christmas-tree approach to dealing with budget problems. It is like the last train leaving the station. So, instead of being a careful review of where reductions can be made by the various committees, it is considered very much like a tax bill these days, or a continuing appropriations measure; it is the last train leaving the station. So you pile everything on that train and nobody quite knows what is involved.

This year has been the best example of that. The administration had a number of reductions it wanted to implement, along with policy decisions. Reconciliation was the tool for that. Indeed we did not want to have reconciliation used as a vehicle to include spending measures, which we feel is just the opposite of what you are trying to do, yet in this last reconciliation process, although we implemented $35 billion in cuts, it is interesting to note that storefront centers for improving chastity consciousness were included. Last year there were spending matters added as well. They can be buried in a measure that is so big that very little attention is paid to the particulars.

One proposal that came out of the committee on the other side involved deregulation of radio and television. This was a policy issue that did not relate to savings. Items like this deregulation legislation was thrown on to reconciliation, because there is a sense that this is the last train leaving the station—let us get it on that train and nobody will pay attention to it.

With the time frame established for reconciliation, the administration will provide a list of where cuts ought to be made. We in turn, tell the committees that they can make up their own mind as to where those cuts can be made.

The reality is when you tell the Labor and Education Committee they have to cut $10 billion, which is what we told them in this round of reconciliation, there is not a hell of a lot they can do in exercising their own decisions as to where the cuts should be made. They are tied to a set figure. It has to come out of Labor and Education. So what happens? OMB more and more runs the show because they are providing specific areas where cuts should be made, although we have told chairmen they do not have to adhere to those directions. But they do not have the time to consider other options.

On May 15 less than 30 days was provided to the committees to respond to the instructions sent out on that date.

Committees could not afford to spend that much time in hearings, in carefully considering the impact of the cuts that were being proposed. The result was that in most situations they simply had to take the recommendations offered by the administration or try to revise them in one way or another, but they largely relied on those recommendations as presented. The fact was that over 80 percent of the recommendations that came out of the committees were essentially what the administration had proposed.

What concerns me, again, is that we are not giving the committees, then, their rightful role as authorizing committees to make those kinds of careful decisions.

You know the bloc grant proposals are the best examples of that. We did not have any bloc grant legislation submitted by the administration, whether education, social services, or any of the other areas determined to be bloc grants, we did not have their proposals at the time the committees received their instructions.

User fees in the Coast Guard area, for example. Committees could say, we are not going to propose user fees because we do not have any legislation. As a consequence, there were no hearings held; no consideration given. Yet, amendments were offered on the floor containing these same bloc grant proposals and they were passed without careful consideration by the Congress.

I think we will see additional reconciliation coming down the road. We will have to see what the administration recommends on Tuesday, but you will see the need to cut up to $100 billion. There is no question that reconciliation will be used as a vehicle. You cannot do it otherwise. The result will be that reconciliation will be used as that last train leaving the station, and unless committees begin now to consider alternatives and review other options and begin to look at the departments and agencies they are responsible for, they will be overwhelmed. That is the reality we have to face up to.

I think, as a consequence, it is extremely important to set a timeframe that allows the committees more time to conduct oversight in preparation for work on budget cuts.

Second, let me mention the economy itself. There is a tremendous focus on the problems we are having in the economy. Less than 1 month after we put a program into place, there is a lot of consternation as to whether the program will work; it does not go into effect until October 1.

The most important thing we can do, whether you are Wall Street or private citizen, is exert some confidence in terms of the budget.

I think the hope was that a Republican administration would provide a greater center of stability in terms of where we were going on the economy; yet a month after a program goes into place, we are revising it already.

[Mr. Panetta's prepared statement follows:]

PREPARED STATEMENT OF HON. LEON E. PANETTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

I would like to thank the chairman and the members of the Legislative Process Subcommittee for inviting me here to testify this morning. I had the privilege of testifying before your committee in April 1979 and I am pleased to have another opportunity to discuss my biennial budget bill, the future of oversight activities in Congress and the budget process in general.

H.R. 1010, the Biennial Budgeting Act of 1981, currently has 35 cosponsors and has been referred to the Government Operations Committee as well as the Committee on Rules. The bill would amend the Congressional Budget and Impoundment Control Act of 1974, giving Congress 2 years to conduct oversight hearings and pass spending legislation in preparation for a 2-year budget period.

In brief, under the provisions of H.R. 1010, the first 6 months of the 2-year congressional term would be devoted to formal oversight of programs and agencies by the committees of each House. The second 6 months of the first year would be set aside for work on authorization bills and would end with the House Budget Committee reporting a first concurrent resolution on the budget. Authorization bills and the first budget resolution would be passed early in the second session, following which both Houses would consider appropriations bills, with a deadline for passage of such bills the 7th day after Labor Day. A second budget resolution would be passed 2 weeks prior to the start of the new 2-year budget period.

From my perspective, the most exciting recent development regarding the 2-year budget bill was a decision by the General Accounting Office to conduct a study of the 2-year budgeting concept. Congressmen Mineta, Bethune, Regula, and myself requested on behalf of the House Budget Committee's Task Force on Enforcement, Credit, and Multiyear Budgeting that the GAO undertake a study in a letter to Acting Comptroller General Milton Socolar last July. We were advised soon thereafter that the Program Analysis Division of the GAO was beginning a study to determine "the feasibility and advisability of lengthening the budget cycle, specifically to a 2-year period."

Obviously, I am very much looking forward to the completion of the GAO report, which I expect to be published in the fall of 1982. No similar study has been conducted that attempts to explain what the impact of a 2-year budget process would be on Congress, and the Federal Government in general. A member of the GAO staff involved in the study has already visited the State of Wisconsin, a State with a 2-year budget system, to talk with legislators, staff and budget experts on the advantages and problems that accompany such a system, and the staff has plans to visit other States that are run on the 2-year schedule. I hope to receive an interim report on the progress of the study next month.

In my testimony before this subcommittee during the 96th Congress, I focused on the problem of committees abandoning their oversight responsibilities in a rush to pass new legislation. The Biennial Budgeting Act was offered partly as a solution to this problem. It was my feeling that by stretching out the budget process and allowing committees 6 months to conduct oversight activities, enough time would exist for considering new legislation and a thorough review of existing legislation would be assured.

This year, for the first time in the past few decades, Congress is more involved in cutting back the number and size of Federal programs than in creating new programs and increasing the scope of existing programs. This situation, however, does not diminish the need for oversight. In fact the need is even greater. Based on the last round of budget cuts, the elderly will lose various benefits in social security, schoolchildren will have to pay more for their lunches, CETA jobs will be eliminated, food stamp benefits will be lost, and the disabled will be forced to pay more for medical care. These cuts will undoubtably hurt people. What is more, the administration is planning to make significant new cuts, with congressional approval, of $80 billion to $100 billion over the next 2½ years. Whether these cuts should be made is a question for another day; what needs to be addressed here is whether the committees are prepared to make cuts based on their knowledge of Federal programs or whether they will be based on a blueprint drawn up by the Office of Management and Budget. How are our committees to make intelligent decisions about which programs can be eliminated or cut without taking the time to talk to those who run the programs, and to outside analysts, beneficiaries of the programs, the GAO, CBO, and Congressmen whose districts feel the impact of the programs—essentially what is done through oversight. It may be that all programs under a particular committee's jurisdiction are run efficiently, effectively, serve beneficiaries and contribute greatly to the economic and social health of this country. The challenge today is to identify those programs at the same time those not so efficient or effective are reformed or cut back.

Through reconciliation this year House committees were forced to find $35 billion worth of budget cuts in just over 3 weeks—the period between passage of the first budget resolution containing reconciliation instructions and the deadline for submission of legislation achieving spending cuts. As chairman of the House Budget Committee's Reconciliation Task Force I worked daily with the committees as they put together their spending cut packages. It was clear that this was an extremely difficult process for most members, not just because of their political stance on the budget cut issue, but because the background analysis of where cuts would hurt least was either not available or incomplete. This situation raised the question of whether committees were doing proper oversight on programs under their jurisdiction. Surely with thorough oversight activities committees would do a better job of identifying and defending effective programs, defining the impact of proposed cuts and targeting where legitimate cuts can be made.

So whether the Congress is engaged in expanding or contracting the size of the Federal Government, oversight activities are crucial. Under the Biennial Budgeting Act, again, a 6-month period would be set aside for such activities, leaving Congress the rest of a 2-year period for work on authorization bills. With such a schedule I am confident that Congress will be better equipped to deal with the difficult budget issues that will face us in the future.

Outside the area of oversight, I think the most important point that needs to be made about the biennial budgeting process is that it will force Congress and the administration onto a more stable and predictable budget path. How many times in the last few years have we seen Congress and Presidents scrambling to piece together a short-term solution to inflation, high interest rates, unemployment and deficits when a stable, consistent policy adhered to for a reasonable length of time would actually do more good? Our experience this year is a case in point. One month after passage in Congress of what was supposed to be an all encompassing economic plan we see the administration rushing around formulating new proposals in reaction to high interest rates This sort of reaction inspires little confidence on Wall Street or Main Street, and furthers the popular perception that Washington cannot conduct a sensible economic policy. Is it not preferable to develop an economic plan that addresses the problems of the day and stick to that plan? Certainly it would be difficult to avoid swerving from time to time to correct serious economic problems, but I think enormous economic benefits could be gained by following a set path and showing some discipline to the country.

With regard to the 2-year budget bill, the question is whether a stretched out budget timetable would lead to more stable budget-related policies. Some benefits are obvious. Administrations would have months instead of weeks to put together a budget, and Congress would have large blocks of time to hold hearings and debate administration proposals—even after oversight was conducted. This year, for example, there were many flaws in the administration budget that could be explained because of time constraints. In fact, budget analysts on Capitol Hill were deprived of a complete set of proposed program funding levels from the administration until just before the Budget Committees met to mark up a 1982 budget.

In a 2-year budget process trends in the economy could be measured over a long span of time, leading to more accurate economic assumptions, a crucial component of any budget resolution. Also, once a 2-year budget is passed Government agencies could plan their efforts over a longer term, assured that funds would be available for a 2-year period rather than a 1-year period. As noted by the Congressional Budget Office in a recent study, State and local governments would also benefit from increased financial security as a result of 2-year appropriations. CBO has concluded, based on the results of a study conducted for the Office by Peat, Marwick & Mitchell and Co., that biennial budgeting would relieve State and local governments of the continual pressure they face to "second guess" future appropriation levels. The effect of that pressure, according to CBO, is that State and local officials tend to underspend their Federal funds, often then losing the funds at the end of the year. As a result, programs that are under-funded to begin with suffer still more from under-spending. It is likely that programs would be run more effectively at all levels of government if agencies had assurances that funds would remain constant over a 2-year period.

I believe all of these attributes of a biennial budget would contribute to a more stable and predictable budget process at the national level. Of course there will always be stresses and strains on the process no matter what the time limitations. Even so, I do not think we can ignore some of the obvious benefits of biennial budgeting.

Thank you again for having me here today. I would be happy to answer any questions you might have at this time.

Mr. LONG. Do you not think the process that was followed, often without any regard to established procedures in itself aggravated the lack of confidence on the part of the people who follow the activities of the Government?

Mr. PANETTA. The problem I see is when you have to make reforms of the program or make additional cuts, then people lose any confidence they may have had that you know what you are doing, they lack that confidence because they see you begin to back off from the programs you have put in place.

Mr. LONG. I was in investment banking and the financial business before I came to Congress. I know the stock market projects 6 months into the future. First, the market lacked confidence that something was going to be done about the economy. Then, when budget cuts were made, the process didn't stop there. Major reforms were made through reconciliation. This aggravated the lack of confidence that was in the financial community.

Mr. PANETTA. I think it is happening now, but it has happened in the past. The Carter administration ran into the same problem where they said, this is the way to move toward a balanced budget. In fact, the Congress passed a balanced budget last year, and before we knew it we were looking at a deficit of $40 billion to $50 billion. As we continue to respond to pressures out there, we create that much more consternation in the financial markets, because they say we are continuing to play games with this thing from month to month, depending on where the political pressures are coming from. It is interesting to hear the new explanations for why the program is having problems. We are being told now it cannot work unless you implement the gold standard. I am afraid that down the road we may be told we need a depression to make supply-side economics work.

I think the 2-year budget, for that matter, would allow us to provide greater planning. I realize there need to be changes as we go along, as we see costs increasing and decreasing in certain areas.

For instance, in the defense area, I am not sure we could tie down a defense budget for 2 years because of the needs in that area. But the more we set ourselves a plan and the more we can then begin to stick to that plan over a longer period of time the greater the confidence we will inspire across the country.

For that reason, I have suggested the 2-year budget. It is now being studied by the GAO. They are now making studies with regard to States with 2-year budgets. I happen to believe we have to slow the process down, create more time for oversight, and also a longer period of time for the budget to operate. Otherwise, what I predict for the future is that we will not be considering legislation on an individual basis. There will basically be two bills we will work on, one of which will be reconciliation. It may occur that we will pile all our other legislative changes into reconciliation. If I were smart, I would put all my legislation into reconciliation, which is very tough to veto. You will have reconciliation and a tax measure of some kind, and then you will have a continuing appropriations bill. You have three major vehicles that run through this. That is where all the business will be, and there will not be a hell of a lot left.

Mr. LONG. And two of those have already occurred in spades.

Mr. FROST. Are you inferring that we should repeal reconciliation?

Mr. PANETTA. No; there are dangers to abusing reconciliation, but I still feel it is necessary to the budget process. Let me add that from a budget process point of view I have always said, and I reemphasize that if all the committees become a subcommittee of the Budget Committee, this place will fall apart, or the budget process will fall apart. The budget process only survives if we have a partnership with the authorizing committees and the Appropriations Committee. Authorizing committees are saying that the Appropriations Committees are telling us where to cut. The Appropriations Committee is telling us how much we can spend on programs, and they are taking our authority. I think it is only a matter of time, assuming that kind of thing continues, before people say this budget process and reconciliation are essentially taking away from us our own responsibilities.

Mr. LONG. The method we had to follow because of the circumstances which existed gives a good deal of credibility to those charges.

Mr. FROST. Leon, I am very much in sympathy with what you have said. You seem to be assuming the reconciliation process as it worked this year will be the norm; that it will continue to function that way. Is not that somewhat dependent on the popularity of the President, whoever happens to be President at the time, and how he can marshal his forces? He rolled over Congress this time.

Are you assuming that even if his popularity goes down, or the subsequent President's popularity is not as high as his, that we have established such a precedent that reconciliation will be with us as we saw it this year regardless of the internal factors?

Mr. PANETTA. I think the danger is that when you begin to use a tool as a crutch, that regardless of the popularity of the President involved here, and admittedly a lot of the credit goes to him as to his ability to sway votes with regard to the particular amendments he wanted in reconciliation, the reality is that reconciliation is a good crutch. You pile things in one. Members may find that the best way to protect themselves, and to get legislation through Congress is to bury legislation in an omnibus bill; because this is an attractive way to do business, reconciliation may become permanent.

Mr. **Frost**. You think it is here to stay? I understand what you are saying, the best safeguard we have is to lengthen the process and require the committees to spend more time dealing with it, to reassert themselves.

Mr. **Panetta**. And to educate the public. Few people understand as of October 1 what will happen as to cuts. We have 350,000 CETA people out of jobs, 15 million to 16 million schoolchildren who will be paying more for lunch, we have those needy who will be off food stamps, there are cuts in medicare-medicaid, the minimum benefit.

Although I think many are aware of that, I am not sure the American public is completely aware of what will happen. It is important to educate the American public to what the impact will be. This is the real thing. We are not playing games. I think the additional $16 billion the President wants will be tougher to get because the impact of the cuts we passed last year will be known.

Mr. **Long**. Thank you very much.

Our third distinguished witness is the Honorable Berkley Bedell of Iowa, who serves on both the Agriculture Committee and the Small Business Committee. Thus you are in very close touch with the concerns and problems of the citizens comprising the backbone of America. I am delighted to have you with us today.

Mr. Bedell, proceed, in your own manner.

STATEMENT OF HON. BERKLEY BEDELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. **Bedell**. First of all, I would like to associate myself with the remarks of my esteemed colleagues. I do support sunset legislation, which you are talking about today, and I support oversight.

You have been kind enough to let me testify in regard to a bill of mine which I think fits into both sunset and oversight.

I have had a paperwork project for some time. I made quite a noise out in my district to tell my people in the district that whenever they have paperwork that they think is unreasonable, they are to let me know about it. This has made me much more aware of the problem, and we have gotten some changes made.

In my opinion, if we look at the paperwork requirements of legislation, it would serve two purposes.

First of all, it would alert us as to how we should write our legislation, and the possible consequences to the public as we do so. More importantly, if we had that in the report, it would then serve as information to the bureaucracy, who so frequently say, "This was the intent of the Congress." I think it fits in very well.

Also, with our sunset legislation and with our oversight legislation, if we were to review our legislation periodically and if that legislation included the paperwork burdens of the general public, we would be able to compare whether the paperwork burdens that were being imposed were what we had originally anticipated, or whether indeed the actions of the bureaucracy were contrary and adding to those burdens.

My experience has been that frequently the bureaucracy wants to have more reports, more information, and more paperwork, so they can spend more hours putting out their reports, which are usually not read.

In my bill, and I have prepared testimony which I would like to submit, it specifically says in the legislative process the committee report will include a report as to what is anticipated in terms of paperwork requirements. That is to be included in every bill. It ideally fits the legislation you are discussing today, and it is my hope it would be added to the legislation if it is enacted.

I would like to submit my statement for the record.

Mr. LONG. Without objection.

[Mr. Bedell's prepared statement follows:]

PREPARED STATEMENT OF HON. BERKLEY BEDELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

I greatly appreciate this opportunity Mr. Chairman to participate in this comprehensive hearing on the subject of congressional oversight and the legislative process. Certainly your leadership in this area is well-recognized and I want to commend you for taking the time to address this issue.

Since the First Congress, changes have been adopted to improve the legislative process as the times dictated. Accordingly, because of the complexity of the issues that the Congress finds facing itself today, a number of legislative changes have been proposed to improve our legislative process. H.R. 58, the Sunset Review Act, House Resolution 100, the Committee Improvement Amendments of 1981 and H.R. 2, the Sunset Act of 1981, are three such proposals.

H.R. 2440, the Paperwork Awareness Act of 1981, embodies a concept which I have been advocating since coming to the Congress in 1975. Day after day, businesspersons, educators, labor leaders, administrators, and Members of Congress speak out against the proliferation of paperwork and burdensome requirements placed on industry and the government by new legislative measures. This is a problem which must be addressed and corrected during the legislative process, and not after a measure has become law.

My legislation would require committee reports on proposed legislation to contain statements of the reporting and recordkeeping requirements which will be imposed on individuals, private industry, and state and local governments as a result of the enactment of such proposed legislation. It is important to note that this paperwork assessment is not meant to be a reflection on the pros or cons of the legislation in question, but is rather to serve as a useful tool for identifying the impact of and perhaps preventing the imposition of some unnecessary and costly burdensome paperwork.

It is simply not enough that we address the reduction of current paperwork requirements. We must also address the creation of paperwork and stop it at its source! The Federal Paperwork Commission estimated several years ago that the cost of Federal paperwork requirements amounted to over $100 billion a year. Two years ago, the Office of Management and Budget estimated that the public devoted 786 million hours—nearly 33 million days—to filling out Federal forms.

The enactment of H.R. 2440, the Paperwork Awareness Act, would address the creation of paperwork. While this should be the first step in the battle against burdensome paperwork, an important compliment to this assessement is sunset legislation. The Sunset Review Act, H.R. 58, introduced by Chairman Long, provides for committee review of Federal programs and tax expenditures. This legislation along with H.R. 2, The Sunset Act of 1981, is a responsible approach to curbing extensive bureaucy and making government less complex and more responsive.

While legislation may address a particular need in 1981, that same legislation may be out-dated by 1991. Clearly, the Congress must assume the responsibility for reviewing these programs.

The task of review should not be considered a secondary role of the Congress. Currently, we have 11 departments, 44 independent agencies, 1,200 advisory boards, committees, commissions, and councils. In addition we have over 1,000 Federal spending programs which are administered by 56 agencies.

If we are to meet the cries of the American people to eliminate waste, fraud, and abuse, then we must fully assume our oversight responsibilities. Programs that were adopted for good purposes but which may have outlived their usefulness should be eliminated or overhauled. Yet seldom do we look at these programs. The General Accounting Office has identified 1,200 spending programs of which 800, or two thirds, are permanently authorized, and thus never come up for review or reconsideration.

We need Federal programs that reflect the priorities of our Nation. As the priorities of our Nation changes, so must the programs which are established to satisfy these priorities. Sunset legislation gives us the means necessary to assure that our Federal programs reflect our national priorities. In addition, establishing an effective procedure for reviewing all Federal programs on a regular and rational basis is necessary to return control and oversight to the Congress.

I applaud this committee for its initiative in holding these hearings on the legislative process and congressional oversight. I strongly endorse sunset legislation as an important way of dealing with excessive and wasteful government programs. In addition, I urge your consideration of H.R. 2440, the Paperwork Awareness Act of 1981, as another effective tool to bring our government under control and eliminate a costly burden for individuals, businesses, and governments.

Thank you again, Mr. Chairman, for this opportunity to present my views.

Mr. **Bedell**. I do not think there is anybody unaware of the problems we have.

Mr. **Long**. I do not think they are dissimilar or unrelated to the other problems we are discussing here today.

Mr. **Bedell**. As has been indicated by the testimony of my colleagues, I think what is really happening is we are moving to a place where the legislative requirements will be significantly diminished because of the processes and because the executive branch of the Government is taking over a great many of the burdens which were previously legislative burdens. If that is the case, we should take the time to look at the oversight function and to look at what the executive branch is doing. This is one area where I get constant complaints that the executive branch is simply imposing paperwork.

Mr. **Long**. Thank you, Mr. Bedell. I want to thank all of you for your statements and for appearing particularly on a Friday morning when there was just a pro forma session of the House.

You have all indicated there is a need for congressional oversight of committee activities.

Your experience in omnibus-type reconciliation bills leaves me convinced that we have to provide a system with in-depth review of programs and we have to be able to do it much better. We are not using our God-given intelligence. We just had absolute prostitution of the legislative process. It is something that disturbed me, I think, as much as anything has disturbed me as long as I have been in Congress.

In view of the experience with reconciliation—and I would like all of you to comment on this if you would like—though I particularly address this if I may to you, Leon:

If the procedure you recommend for improved oversight had been in place during the first session of Congress and, say, 2 years before, would it have been effective, do you think, in view of the political situation that existed and the radical nature of the President's recommendations? How would it have affected the overall legislative process?

Mr. **Panetta**. It is hard to say that it would have made any difference. Very frankly, it depends obviously on how political pressures would have developed. I think if there were more oversight, though, there would have been greater media attention to what committees were in that area.

What tended to happen when I got here was that most attention was on new legislation. We never sent out press releases on oversight we were conducting but on legislation that was produced. Nobody really put any emphasis on committees doing that kind of review. Sure, when there was somebody playing Beethoven while working at his job, that became something that people focused on as an abuse within the bureaucracy. Those were hit-and-miss things, and Senator Proxmire had his prizes and people focused on those things. But there was never any consistent overview or a focus on oversight areas. If there had been, committees would have been pressured to come up with reforms in all areas of government.

I think it would have given us a better headstart. We would have had a lot more background as far as areas for reduction. What the administration used for budget cut proposals were ideas that have been bouncing around for a long time, from GAO, OMB, CBO and others. The unfortunate thing is that Congress never conducted the in-depth review so we would have known the impact of these cuts or what the revisions should have been in those areas. I think we would have been much better prepared to deal with the proposals suggested. I cannot tell you that we would not have faced the same kinds of cuts as we did this year, because I think we had reached the level that by virtue of nothing happening, people felt something had to happen.

Mr. **Bedell**. I think it would have been very much different because the complaint that I heard, at least during the campaign and so on, was not nearly so much that we should cut back on social security or that we should cut school lunch programs or these sorts of things. The complaint that I heard was that there was too much waste, fraud, and abuse in the Government; we ought to make the Government work better.

Oversight would have performed that function. I believe a great deal of the complaint was that either our laws were too loose or they were being badly administered. For instance, in the food stamp program, they were out convincing people to come in and get more food stamps instead of making sure they were made available to the needy. I think oversight would have brought about those improvements. I think the demands of the public have been misinterpreted.

Mr. **Long**. Certainly the widespread attitude circulating in the country that the Government was doing nothing in this area at all and consequently radical surgery was needed created the opportunity for the President to do what he did and for the OMB to do what they did.

Jim.

Mr. **Blanchard**. I feel very strongly that the pent-up frustration of Members of Congress and the active observers of our process, whether they be on Wall Street, in Washington, or in Detroit, not to mention the general public, that growing frustration put us in the situation where we ended up with a Congress voting not to look at a budget seriously but voting on something that does not even contain a bill, but phone numbers.

With reconciliation this year we had fanaticism, that has changed my political life, Mr. Chairman, watching that. I will always believe if we had been able to set forth an orderly budget review process some years ago we could have headed that off. I think we need to craft a consensus bill with the Republicans, providing a process that is President-blind, because this stuff is going to come and go here, as sure as the Sun will rise or set. We have to slow the budget process down and look at it in a qualitative way. When the active observers of Congress see that happening, that will spill out and influence public opinion that something is happening.

Right now the process is out of control and we have frightened Members reacting with television speeches, but that does not offer any help.

Mr. LONG. Are they too different from the business and industrial leaders of America? They get concerned with how their next quarter's profits will compare with the profits of a year ago. In one of the better political stories Alben Barkley told, he said he was campaigning for his fourth term down in Kentucky, going from house to house when he ran into this old man. The old man said, "Alben, I do not know that I will vote for you again."

Barkley asked why and said, "During World War II I got one of your sons in the service out, and another one in that could not get in; I helped you with your social security two times; even went to the State of Kentucky and helped your daughter get a job. Why are you thinking of not voting for me?"

The reply was: "Well, what have you done for me lately?"

That is a little bit of the attitude we have developed around here, when we have 20,000 pieces of legislation a year. I do not know that this trend is any more reversible in the Congress than it is in the industrial community. The President of GM is worried because he has limited material, as we do. He is worried about how his record compares with the record of a year ago and whether the stockholders are going to reelect him at the next meeting. The bottom line he looks at is the earnings of the past year, how that relates to the employees, how his common stock is selling on the stock exchange.

Mr. BLANCHARD. We have been looking at those questions: What is the role of Government, of the business, and financial communities, and so on and so forth. I look at it from the point of view of having looked at the New York City crisis, then Chrysler. You can argue Congress is more rational, but in either case the short-term, often panic-stricken, conduct of people is contrary to the kind of planning and consensus necessary for a stable economic system and a workable democracy.

Mr. LONG. I think Leon was the one who said kneejerk. Martin.

Mr. FROST. Jim, this committee, the Rules Committee is very reluctant to yield any of its prerogatives over establishment of rules for debate. How far should we consider at some point changing the rules of the House to prevent a reconciliation package from being voted on under a closed rule? That seems to go to the question of careful consideration by the House of Representatives of what is in that package, and I am particularly concerned about that in light of Leon's comments earlier that he thinks we are stuck with this process, that we are going to have it for a long time, at least for the foreseeable future.

One of the things I found most objectionable was the inability to consider individual matters on their merit.

Mr. **Blanchard**. Leon put it very well in his testimony; that is exactly what is happening.

Mr. **Panetta**. I think it would really be tragic if we went to a completely open rule on it, anymore than you would go to an open rule on a tax cut measure, because there would be chaos.

In the context of a modified closed rule on something like that, you would at least require that the major amendments to be considered would be printed in the record and would be subject to consideration by the Rules Committee, certainly, if not the Budget Committee, as opposed to having those things come up at the last minute. I agree with Jim, that 800-page amendment was really the worst event that has taken place in the legislative process in the time I have been around here. It was a total abdication of our responsibilities.

If there are rules that require that kind of thing be in the record and some consideration be given to it, I think that is absolutely essential.

Mr. **Frost**. Chairman Bolling has indicated by letter that he is going to implement that on his own.

Mr. **Panetta**. I think that puts a lot of pressure on the chairman of the Rules Committee. I think it would be better to have the consensus or support of the House behind the rule which in effect says this is the way we ought to go.

Mr. **Frost**. The printing requirements—notice requirements of amendments.

Mr. **Panetta**. That is right.

Mr. **Long**. Mr. Blanchard, one of the things that has concerned me about your sunset legislation as you well know, is the automatic termination feature. We considered this so radical it had no chance of getting enacted into law, except for the provisions as to tax expenditures. But the action we took through the reconciliation process in terminating programs was so much more radical than anything envisioned by you, it has perhaps changed my mind about our ability to get something like that enacted.

The question I have is whether the political circumstances would exist again that would allow us to deal with tax expenditures in an organized manner.

Tax expenditures as an issue hasn't surfaced yet. What did surface, briefly, was impoundment; but we didn't hear any more about that after a day or two. We have not heard a thing about tax expenditures as a source of the money they say we need.

Mr. **Panetta**. $16 billion.

Mr. **Blanchard**. Of course they object—those who oppose reviewing tax expenditures reject the notion a tax decrease for one is a tax increase for another. They believe the money originates in the bank accounts of the individual and should not be treated in the same fashion. There is some sympathy on my part, but the reality is unbelievable, when you see everybody changing their legislative proposals to make them tax revisions.

Let me mention again that I think we have to have a President-blind process. I think if we have an orderly process, the frustrations that have built up not only by the public but by our colleagues would not result in what we saw on that unbelievable day in June.

I can recall in talking about sunset review with you and others in years past—most of the committee chairmen were dead set against it, and oftentimes ranking minority members as well. But everybody in this place was saying you have to have some way to review spending that was fair, that did not create an enormous amount of profitless work. Then half would say, it would not be too harsh to offer expiration.

Mr. FROST. It is not over.

Mr. BLANCHARD. Let me point out for the record again, in H.R. 2 what happens is basically all spending programs are treated alike. The spending authority expires, if it is not consciously reviewed; the legislative authority stays intact, period. So you are not knocking out laws, rights, privileges, substantive law, just the spending authority; again, obviously, far less radical than reconciliation.

In addition, I would submit that if you do not have some way to simply knock out the spending authority, then you might go for something we have discussed privately, which is prohibiting a program from having an increase in funding unless it is consciously renewed. It will help slow the growth of spending without running the risk of complete termination of the spending authority. I would be willing to discuss and work on that—it is a matter of whether we have enough political sanity in this institution to handle the budget process intelligently. Leon, you have more experience here, on this subject, than I.

Mr. PANETTA. It is the proverbial mule on your hands. You have to slap it on the rear end to get its attention. Proposals like sunset were rejected by chairmen and even members as somehow impeding on their area of reconciliation. In fact, reconciliation has been more like a slap on the rear end——

Mr. LONG. Or a 2 by 4 across the head.

Mr. PANETTA [continuing]. That will make them recognize that unless there is some intelligent approach put in place, reconciliation will pass them by.

Mr. LONG. There will be problems coming down the road, not only from the administration as to future budget cuts, but because of the budgetary limitations already imposed for next year. What do you think of Toby Moffett's proposal to reserve 3 weeks next January and not allow anything but legislative oversight, before the committees get started on their regular work?

Mr. PANETTA. I like the idea in the absence of putting into affect a permanent process which timewise gives us difficulties. I am not sure the committees were doing very much for the first 2 months of this year. I think it would make a good deal of sense to have these committees set aside time for oversight. Very frankly, you should have the committees submit a schedule as to the kind of oversight they are going to do, because my fear would be that many committees would say, we do not have anything to oversee or review. You have to provide some backup from the leadership or the Speaker to make sure the committees are focusing on particular areas. I think it would make a good deal of sense to do that. I do not know if reconciliation will be used this time around or not. Frankly, I do not think it will be. I think the job on the $35 billion was significant; if they want other cuts it should be done in the appropriations process.

But assuming we do not go reconciliation again, in the next session the reconciliation will be much higher than what we dealt with this time around.

Mr. **Bedell.** I come from a management background. One problem you have is that it is a heck of a lot easier to sit in an office and make policy than it is to administer the bureaucracy. I think that is a major problem of the whole executive branch of Government. Those people in top positions from Cabinet positions on down are more comfortable making policy. I think we suffer from the same thing in Congress. It is a lot easier to sit in your office and make policy. As far as I know, I am the only person in the Congress who consistently walks into agencies, opens doors, and asks the people what they are doing.

Mr. **Long.** Without telling them you are coming?

Mr. **Bedell.** Yes, sir.

Mr. **Panetta.** Actually, Berkley is only 30 years old——

Mr. **Bedell.** My personal opinion is if we had 435 people doing that three times a year, you would not believe the results.

Mr. **Long.** I agree with you. I do not know what the result would be——

Mr. **Bedell.** I can tell you some things it would be. You would not have people sitting around all day doing nothing, which I find at times in these agencies. So in my opinion two things have happened. First of all, with the changes we have seen, we no longer have the excuse, "We have no time for oversight." We had that excuse 2 years ago, but how can we sit here and say that today. I quit working on my roof to come here and testify, frankly. So the excuses we have for not doing so are gone. And second, it seems to me the need for it is just as great as ever. It is like Jim's legislation; I think its time has come.

Mr. **Blanchard.** I have to agree if the Members participate in the Moffett process, the work of Congress could improve. Of course, we might find more about what is going on if we kicked in doors and were required to secretly show up at these agencies, rather than sitting there and letting them force-feed us.

Mr. **Bedell.** Can I tell you what is happening in a bureaucracy; most people do not know.

Many of the agencies are on flextime. In some agencies, you come to work whenever you want to, from 7 to 10 and work your 8 hours any way you want to, then leave after 8 hours.

In many of those agencies they have no way of checking the time the people came to work, and they sure have no way of checking the time of the people coming to work later in the morning and leaving later in the afternoon. That may be a small thing, but you can imagine running a business when you tell people come to work when they want to and leave when you want to.

Mr. **Long.** They do not punch a time card?

Mr. BEDELL. No. There are some sheets they are supposed to sign out on. When I asked to see the sheets the employees objected because they said under the Freedom of Information Act I should not be able to see them.

Mr. LONG. Thank you, gentlemen, very kindly. We appreciate your coming here on a Friday and your contributions.

The subcommittee stands adjourned.

[Whereupon, at 11:30 a.m., the subcommittee adjourned, to reconvene at the call of the Chair.]

CONGRESSIONAL OVERSIGHT OF FEDERAL PROGRAMS

FRIDAY, SEPTEMBER 25, 1981

House of Representatives,
Subcommittee on the Legislative Process,
Committee on Rules,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room H-313, the Capitol, Hon. Gillis W. Long (chairman of the subcommittee) presiding.

Present: Representatives Long and Derrick.

Mr. Long. The committee will be convened in our continuing series on congressional oversight.

At our initial hearing last Friday, September 18, I made extensive opening remarks, a copy of which is in the folders.

I therefore invite our star witness to proceed in his own manner. His complete statement will be made a part of the record without objection. Mr. Brooks, we are pleased to have you.

STATEMENT OF HON. JACK BROOKS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Brooks. Thank you, Mr. Chairman.

I am delighted to be here for this opportunity to present my views on a subject that is of some interest to me as chairman of the Government Operations Committee.

It is my understanding that this subcommittee has been holding a series of hearings on various sunset-related proposals pending before you. My lack of enthusiasm for the sunset concept is pretty well known, and I am not much more enthusiastic about the other proposals to impose rigid formalities on the congressional oversight process. As chairman of the Government Operations Committee, I am particularly concerned about the requirements those proposals would place on that committee. Most of my comments, therefore, are addressed to House Resolution 100, sponsored by my good friend from Mississippi, Congressman Trent Lott.

House Resolution 100 would give the Government Operations Committee a considerable role to play in the development of an oversight agenda for the House in each Congress. I suppose I should be flattered by the high regard Mr. Lott shows for the committee in assigning it such a prestigious responsibility, but I am somewhat in the position of the man about to be tarred and feathered and ridden out of town on a rail, who said, "If it wasn't for the honor, I'd just as soon walk."

The resolution would require the Government Operations Committee to hold hearings on the oversight plans of each of the 22 standing committees of the House and on their accomplishments, if any, in carrying out their oversight plans of the previous Congress; to consolidate and coordinate these plans into one agenda, one concise agenda; write a report adding our own recommendations and suggested amendments, and report the whole thing to the House—all within 30 days. I can think of better ways to commit hara-kiri than jumping on every one of the individual committees, analyze what they have done and have not done, comment on it and suggest what they ought to do and tell them how to do it. They would just love you; I would get a standing ovation.

Mr. Long. It seems to me, Mr. Chairman, that is the kind of life you are always looking for.

Mr. Brooks. And I have had some and I have decided that these pro bono exercises—I would rather they did not happen on my watch. I do not believe that is one of my job responsibilities. I read the job description. It did not say fight all 22 committees and chew them all out publicly—it ain't on my list.

Now this resolution could probably be improved tremendously by a very simple amendment that would just change the words from "Government Operations Committee," wherever they appear, to "Rules Committee." That is right. It is the most logical committee to handle these little differences, minor differences.

The resolution builds upon the provision that is now in the House rules requiring the Government Operations Committee to report within 60 days of the opening of each new Congress on the oversight plans for the various committees. As I recall you sent a questionnaire to the committees in the last Congress that asked, among other things, what they thought of this rule. And if I am not mistaken, they did not think very much of it.

But if they do not like it the way it is now, they will really find cause for complaint in what this proposed procedure would do to them. Under the current rule, they simply are supposed to draw up an agenda and submit it to us, and we put them all together in a single report. It is pretty much a staff operation because the committees are just getting organized, and, in many cases, we get their agenda before they have had their first meeting. The committee is supposed to give you the agenda but the staff and nobody else puts it together; the chairman submits it before many committees have met for the first time. That is the way it is, if you are going to meet the 60-day deadline for reporting the whole works to the House.

Under House Resolution 100, the committees themselves, each, would have to "formally adopt"—that means meet and adopt—an oversight agenda within 60 days, and then the chairmen and ranking minority members would have to traipse over to our committee and tell us all about it, report, check in. They would love it. I can see them. I think this would greatly increase the problem the committees have now in complying with the rule the way it is. Of course they might be happy to come over here to the Rules Committee.

Mr. Long. Mr. Chairman, wouldn't that intrusion into your turf bother you at all? Would you turn over all that jurisdiction to this committee, the Rules Committee? You know you have been a turf-protector around here for a long time.

Mr. BROOKS. Well, I never felt it was my turf to supervise what other committees do; only when they interfere with me would there be some reservations. But in something like this—it is not my job to tell those committees what to do. It is their business and they ought to take care of it. Now some of them do and some do not, and the degree of how they do it on a scale of 1 to 10, I am not making the judgment.

It is not in my job description. I already told you, Gillis. I am not supposed to judge the investigative performance of each of the other committees. I may have some personal reservations about some of them. Some of them are owned by the people they administer, lock, stock, and barrel. They staff them and tell them what to do, tell them what to think, write their speeches, do not even let them read them before they tell them to deliver them.

I understand that. I have been through the course. But surely that is not the Government Operations Committee responsibility and it is not my responsibility and it can never realistically be done. You cannot even, now, really get much value out of that report when we have just 60 days to get the agenda from the staff on what they plan to do. That report at the beginning of the session is really just so many words each staff puts together so they can say they met the requirements of the law and filed an agenda. I think it is really a waste of time. There simply is not time in the opening days of a new Congress for committees to get together and agree on an oversight agenda for the next 2 years.

You gentlemen serve on a privileged committee here, and a rather small and select one at that. You may have forgotten how it is with the rest of us. Most Members serve on at least two committees and four or five subcommittees. They have great difficulty in scheduling meetings to avoid conflicts between committees. All these subcommittee assignments have to be made before the committees can get down to work. And it is the subcommittees that are responsible for the oversight activities of their committees. Under Mr. Lott's proposal, they would all have to get organized, meet, discuss, and approve an oversight agenda, and then have it approved by the full committee by the middle of March. I do not see it in the cards at all. I do not see it being done. Based on our experience in just trying to get agendas from the committee chairmen, I do not think that it is feasible to say we will appoint members to each committee, approve them in Congress, have the full committees meet and organize, appoint subcommittees—have that by the rules, picking your subcommittees—get them all assigned, have the subcommittee meet and evaluate and study what they are going to investigate for the next 2 years. I just do not see that. They are not going to do it, I do not believe.

We can pass 40 laws to tell them to. I do not believe they can; I do not believe they will.

You do not only need time to prepare an advance oversight agenda, you need a crystal ball, and a pretty good one. Oversight, by its very nature, requires committees to remain flexible so they are able to adapt their energies and resources to changing conditions and situations.

How can we tell in January or February of one given year what outrages an administration is going to perpetrate over the next 18 months? You just cannot tell what they will dream up.

Now you take last night, was not that a beautiful speech? Warms your heart.

Mr. **Long**. There are some people's hearts it does not warm, Mr. Chairman.

Mr. **Brooks**. But I am just saying that you cannot anticipate that.

That is what makes the report we put out at the beginning of the year of so little value, and I would hate to see us make matters worse by adding on any new requirements.

If we want to move in the direction of formalizing or institutionalizing our oversight activities, I would much prefer to see us take the approach you do, Mr. Chairman, in H.R. 58, if you have to have one. That is the best of the bad proposals that has come along since this whole idea of sunset became so popular. I do not hear quite so much about sunset these days. I hope that means people have given it more thought, taken a closer look at it, and realized that the Sun goes down every day, why wait? Maybe we should not be loading up our committees with rigid reporting requirements.

If you add the kind of fixed schedule in Congressman Lott's resolution to the reporting requirements of the Budget Act, the committees would be doing little more than following along fixed tracks, locked into a routine that would greatly diminish the strength and vitality of our committee system.

We need to keep our committees free to deal with the changing conditions and the changing needs of our dynamic society, not lock them into a lot of make-work activities that have the basic effect of keeping us from doing our real work.

Mr. **Long**. Thank you, Mr. Chairman, for a very fine and forthright statement.

If it is agreeable to you, Mr. Brooks, and if you could afford us time, the committee would like to ask Mrs. Schroeder to come up now and then perhaps we can have a panel discussion and do our questioning at that time.

Would you afford us another 30 or 40 minutes?

Mr. **Brooks**. I would be delighted to stay a little longer, yes, sir, and honored that you would accept me to be here in this hallowed hall where so many wonderful things have occurred.

Mr. **Long**. You have paid the proper deference, which makes you particularly welcome here.

Mrs. Schroeder, we know of your interest in improving this institution, therefore, we are particularly glad to have you with us today. We welcome your thoughts on this.

Your complete statement will be made a part of the record, and you may proceed in your own manner.

STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mrs. **Schroeder**. I thank you very much, and thank you for caring about this subject. Here we are on Friday when many people have gone home. I commend you for putting the time in.

Jack Brooks is a tough act to follow.

Jack and I were wondering why we were on together; if he and I were the House's two biggest junkyard dogs——

Mr. **Brooks**. You want to tell them what I said about it?

Mrs. **Schroeder**. No, Mr. Chairman. I would like to reflect upon some of my experiences in doing oversight. I want to be sure we do not get caught up in wonderful causes. Sunset became a cause celebre and now oversight is the great cause celebre.

We have to be careful because Congress has been the cause, I think, of an awful lot of the productivity problems of some of the agencies. I see some of the bills we now have in front of us doing the same thing to congressional committees. It is the old question of garbage in, garbage out. This is a syndrome the gentleman who preceded me did a much better job of describing. But I think he was saying the same thing, and I would agree with him.

We spend an awful lot of time looking at this in the Civil Service Subcommittee because we do one oversight hearing after another. On the Armed Services Committee, obviously, we also do a lot of oversight hearings.

I want to tell you, there is a difference between the GAO audits and the oversight hearings that we have. We are told by the people across the river that they never have anything wrong. Sometimes GAO gets a different picture. Our witnesses come across the river, dressed in red, white, and blue, in a unified front. They brief you to death until you just say, "We surrender, we surrender, everything is fine, terrific, go away; we need to have time to eat lunch, go."

They really know how to get to us.

So I really have some question about what oversight hearings accomplish.

I looked at just last Tuesday's schedule of hearings, and it is not like we are not doing oversight. There were 28 hearings scheduled in the House last Tuesday, 16 of which were labeled pure oversight. I certainly hope they have a better experience than we do in finding things out. When we have an oversight hearing we hear that everything is terrific. When you listen to the agency witnesses it is just like you have died and gone to heaven. We go back feeling very happy. But you find you left the transom open, and it is like there has been a snowstorm overnight. You hear: "They did not talk about this; you did not ask the question right, that is why they were able to duck that," and so forth and so on. It becomes a nightmare.

I guess what my approach has been is to say that it is fine to measure things, if you know what you are measuring. It is my opinion that we are so far behind the private sector in moving into productivity and I think productivity is the main issue. Unless we get some modern measurements of productivity, as they have on the outside, we are just spinning our wheels with this stuff and we are just creating more paperwork.

Now, as the chairman of Civil Service, what we have is, that it is very difficult to have meaningful oversight when all the incentives are to do the opposite to improve productivity.

If you are a good manager and you save money, then you get your budget cut, your staff cut, or you get accused by the Congress of impounding. There is the knowledge that somebody is going to pick you off somewhere for not having spent the money.

So, there is no incentive to save your money. There is no incentive to use your staff more efficiently, because if you do that, somebody cuts your personnel slots. Then they come and tell you, "Hey, you used to have 20 people under you, now you only have 15, we are going to downgrade you"—so your reward is not only do they cut your staff, they cut you.

The procedure for getting equipment that would be cost saving and more productive, takes so long, by the time you get it, the equipment is obsolete. So you are always behind the private sector there, too.

I guess what I am saying is that we need unit cost accounting which we heard about in hearings with the private sector people. They tell us that unit cost accounting is the central nervous system of the private sector. There is no such thing in the public sector. We do not know what the unit costs are. I do not think most of the top administrators that come in do either. The attitude tends to be, well, you know, new Cabinet officials come and go, Senators come and go, Congressmen come and go. They have their own little thing going on in the agency and good luck if you ever find out what it is.

I remember having some interesting discussions with Sam Brown, who was head of ACTION, who said he had the smallest agency in town. He knew everybody by their first name within a week, but he still did not have a clue what was going on in that agency. Now, maybe he was retarded when he said they could run so many circles around him and brief him to death. That is almost like my experience on the Armed Services Committee where you finally say, "I surrender, just call off the briefings and I will sign on anything. Just go away, go back across the river and stay home."

I think until we find ways to put in new measures we are wasting our time. I honestly believe that.

I have introduced a bill—H.R. 3116—that turns the incentives around. I looked at all the incentives that we talk about in the private sector and adopted them to the Federal work force.

If you save money, the Treasury gets half and the agency keeps half. You will not be downgraded if you cut the number of employees. Half the money you get to keep, and you can invest in new labor-saving equipment that has a fast cost payback. The other half can go to bonuses for people who helped you save that money.

We have done extensive hearings on the bonuses for the senior executive service and all the things we put in the Civil Service Reform Act that were supposed to make civil service more like the private sector. I will tell you what happens. Some agencies have done well, but with most of them, it is whether or not you have spinach on your teeth or dandruff on your collar and you show up promptly at 7 o'clock for 7 o'clock meetings and 8 o'clock for 8 o'clock meetings, and your desk is clean or dirty or whatever the boss happens to like. It is this kind of measurement that the taxpayer cares less about. They want to know how many social security checks did the agency process, why they do not return phone calls, and that type of thing.

The other thing we found is that bonuses often depend upon whom the boss happens to like.

Again we are not measuring the things that Congress had in mind when we put the bonuses in there. We really did not put the bonuses in to go to people who did not have dandruff on their collars, but wanted bonuses for people who were running the agency efficiently and increasing the number of outputs for dollars going in.

My bill turns that around and I was all excited thinking that this administration would be ready to go with it. Our hands got slapped. The OPM disbanded the office they had in the OPM that oversaw productivity. It seems that OMB wants to run the whole show. The OPM from my viewpoint really is not in the picture. OMB likes to do the fast-hit things. You run and you cut numbers and you do the things that make for front-page news. You never look at whether or not they need those numbers, or if they needed more or less. You never look at the subcontracting-out issue, and whether it is more cost effective. You never look at any of that. It is just the fast, flashy things.

I guess I got my cynicism, Mr. Chairman, back about 3 years ago when it was really popular to be against paperwork. There was not a guy on the floor who said: "By golly, we love paperwork. Everybody has got to fill out more paperwork."

So, we got a little bill out, and I am sure all of you in here voted for it. We were very proud of it, and I, like an idiot, went out all around my district saying, "We got it out." We did some press on it because it was to reduce paperwork by 10 percent.

Well, the year came and went and there was nobody out tap dancing on Pennsylvania Avenue, saying, "Isn't that wonderful, paper work has been reduced 10 percent." People were still coming in in the same numbers, saying "Too much paperwork."

So, we started the oversight hearings again to see what happened? They said, "Well, we have reduced it. We reduced the numbers of forms 10 percent," and by golly they had just taken the forms and stapled them together.

They had done it, and their response was, "Well, Mrs. Schroeder, we only have 15 people in OMB overseeing this, and we could not handle all these different things. We did not want to step on agencies who might say, "Why are you asking those questions—even though they were mandated by the Congress."

So, the easy thing for OMB to do was to staple them together and continue on.

Now the taxpayers have really had it right up to their ears with that kind of crap, and I have had it too. It embarrasses all of us when this happens after we have told people in our districts that we were taking care of their best interests and have done these wonderful things.

So my caveat is to be terribly careful. The job for us is to seriously look at productivity and get involved. There will be Members saying, "Do not do that, keep the tar baby stuck on the President's hand and the administration's hand." If that is true we had better get out of oversight altogether, because we are wasting our time.

We must get in and do what the private sector has told us they have done. We need more employee involvement, the quality circles, productivity bonuses, unit cost measurement—it is all in my statement. There is no need to read it all to you. I nicely underlined it in red, but it is a waste of time. You know what I am talking about. You have read all the articles and know that we are light years behind the private sector in doing anything about this. That is what we are faced with. Are we going to take on some new legislation, whether it is my bill in a modified form or someone else's bill, to take the entire Federal Government and wrestle it around to an accounting system that is similar to the private sector? That is going to be a bear. The gentleman who preceded me told you how popular you are going to be and how hard the fight will be. Or would we do better to just say, "Let David Stockman handle oversight, he is the executive officer for the executive branch and we are just the legislative branch, and thank you very much."

I honestly think that is the choice. Anything else we do will just get into the same position we got into with paperwork reduction or what have you.

That is my message. I think we are in a difficult time, whether we just frost the same old spinach cake and pretend like it is chocolate, or whether we finally deal with it.

Mr. LONG. As I said, your full statement will be made a part of the record. You again displayed your absolute, unlimited imagination, and your willingness to take on old ideas without any reservations and give them fresh thought.

[Mrs. Schroeder's prepared statement follows:]

PREPARED STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. Chairman: I am honored to appear before your subcommittee and I salute you for dealing with the difficult task of improving congressional oversight. I am also pleased to be sitting on such a distinguished panel of Dick Gephardt and, the original junkyard dog, Jack Brooks. If the executive branch has five or six individuals as mean as Jack Brooks when it comes to waste, we would have a balanced budget today.

The subject of this hearing is how we, the Board of Directors of this enterprise, can do a better job watching what our officers, employees, and divisions do. Setting aside a few weeks dedicated to oversight is fine. Placing programs on expiring authorizations is fine. Imposing review schedules on committees is fine. All of these proposals deal with only half of the problem, and the less important half at that.

I am chairwoman of a subcommittee which takes its oversight responsibility very seriously. Earlier this week, for example, we held seemingly endless hearings on the activities of four Federal agencies. Next week we will look at the hash the Reagan administration is making out of Equal Employment Opportunity in the Federal Government. Congressional oversight is taking place in a serious way. On Tuesday of this week, for example, there were 28 scheduled hearings in the House, of which at least 16 were pure oversight. Another two contained both oversight and legislative portions. Many of the remainder, such as the Budget Committee's hearing on the budget resolution and the Health Subcommittee's hearing on mobile source pollution under the Clean Air Act were, technically legislative, but, in reality, no different from oversight hearings. Congress is doing a great deal of oversight and it should be doing even more, no question about that.

The other half of the problem is the far more intractable one. We don't know how most Federal programs are doing because most Federal managers have no idea how their own programs are doing. Indeed, top executives are almost like basketball coaches trying to decide on substitutions, timeouts, plays, and defensive formations without having the slightest idea what the score of the game is. Further, their players have numerous incentives to do things other than win the game. One player, for example, thinks his rewards are based on how many times he dribbles the ball. Another believes that keeping the part in his hair neat is the most important thing.

Worse yet, we, the Congress, are often the ones responsible for creating the wrong incentives.

My Subcommittee on Civil Service has studied Federal productivity for the last 3 years and come to some pretty shocking conclusion, which can be summed up by saying the system is stacked against productivity. Here are some of our specific findings:

Productivity measurement barely exists in the Federal Government. Where aggressive managers have created systems to measure true costs and outputs of agency operations, they have soon learned that the threatening budget examiners at the Office of Management and Budget (OMB) and the terrifying Appropriations Committee use this productivity measurement against them. So, where there are good management information systems, agencies scramble to hide them. Unit cost accounting, the central nervous system of private enterprise, is anathema in the Federal Government.

Finding ways to save money is the dumbest thing any Federal official can do. If you don't spend your budget this year, you will face a cut next year. If you underspend by too much, the Hill will start screaming about impoundment. If you cut costs in one area and try to spend the money in another, you will be hauled up before the Appropriations Committee to explain why you reprogrammed. It's better to waste the money than to be caught not spending it.

Individual performance appraisal and bonuses are based, at best, on process measures and, at worst, on closeness to the boss. They are not based on organizational productivity and personal contribution to it. Why not? We are told because it would be unfair to judge an individual based on outcomes not totally within his control.

Agencies decide how many employees they need, of what grade, and whether they are in-house or contract, based on externally imposed personnel ceilings. Job analysis and work force planning are not used. Gross numbers, not sophisticated analysis, is the order of the day.

Worker participation barely exists in the Federal Government. Recent testimony by innovative private sector employers before my Subcommittee showed a dramatic change in management style that puts greater emphasis on Japanese-style worker participation, in contrast to the traditional adversarial relationship. There is a growing use of quality circles and labor-management committees that involves workers in problem-solving. Company representatives testified that the use of gainsharing had resulted in phenomenal increases in productivity in their companies and they remained committed to sharing the fruits of increased productivity with their employees as a motivator.

Nobody in government has responsibility for productivity. The Office of Personnel Management (OPM) took a role in this in the last administration but Director Devine has now eliminated virtually all productivity functions from OPM. OMB, on the other hand, has never shown any interest in this subject. The management side of OMB is now completely committed to the quick hit, public relations effort of Ed Harper, officially called the President's Council on Integrity and Efficiency in Government.

Managers who find a way to do the job with fewer employees find themselves downgraded. Employees who work more efficiently and produce more find themselves RIFed. Managers who find it cheaper to do work in-house, rather than by contract, are presented with personnel ceilings which prevent bringing the work inside.

The mission assigned all elected officials today is unmistakable. We were told by our constituents to fix the economic mess. To me, that means balancing the budget. You and I have only four ways to balance the budget: First, we can convert to the jelly bean church of economics and believe that cutting taxes and increasing defense spending will balance the budget. Second, we can repeal the Economic Recovery Tax Act and, thereby, increase revenues. Third, we can slash services: perhaps we can reduce social security benefits further or eliminate the School Lunch Program or abolish agricultural subsidies. Fourth, we can cut the cost of producing the current level of services through greater efficiency. The fourth option is certainly the most attractive to me; yet it has also been the least pursued. Why? The reason is that productivity should be an automatic by-product of good management. Traditionally, Congress has left it to the executive branch to manage its operations. We lack the time, expertise, and resources to tell the executive branch how to manage its operations. Further, it may not be appropriate for the Board of Directors to second guess the plant manager.

As you know, I introduced H.R. 3116, the Government Cost Reduction Act, to meet this problem. It is a comprehensive bill which addresses all the disincentives to productivity which we have found during our long investigation. You would think that this administration would embrace this legislation. I did. Well, I was surprised when the administration nitpicked the bill in its testimony. The message I got back was clear; leave government management to us; we don't want Congress involved in overseeing productivity.

H.R. 3116, the Government Cost Reduction Act, aims to turn around the current set of disincentives to increased productivity. The bill encourages agencies to save money by allowing a portion of the savings to be used for productivity enhancement and for bonuses for employees responsible for the savings.

H.R. 3116 would also establish agency productivity reserve accounts to capture cost savings. Under current procedures, there is no mechanism to permit underspending in the government. Productivity savings would be accumulated in the productivity reserve accounts and could be used as a bank. One-half of the productivity savings would be returned to the Treasury. Twenty-five percent could be earmarked for investment in productivity enhancing activities with fast payback potential, which would be readily auditable by the Congress. The remainder, up to 25 percent of the savings, would be equitably distributed to the employees responsible for the cost savings.

H.R. 3116 calls for increased employee participation in productivity improvement and involves rank-and-file employees in the job of reducing the cost of government. Employee motivation can be stimulated by increasing incentives, rewards, and recognition for employees who improve efficiency, effectiveness, and the quality of government programs.

H.R. 3116 will also mandate that agencies develop specific performance measures that are related to the substantive mission of the agency, efficiency, quality, and effectiveness of functions performed by the Government. My legislation would give the agencies a target date for development of these measures for programs that provide direct services to the public and for support activities, such as maintenance, procurement and personnel activities. I would propose that measures for jobs such as planning, research and development, grant and regulatory activities should be developed experimentally through demonstration projects.

H.R. 3116 also changes reward systems to link Civil Service Reform's performance appraisal to long-term performance and organizational effectiveness. SES bonuses would be earmarked for executives who have successfully implemented new productivity enhancement systems and who have met cost reduction goals and program performance targets.

H.R. 3116 would also remove productivity disincentives which encourage empire building by managers and specify that managers not be reduced in grade because of reduction in personnel caused by productivity improvements attributable to actions taken by the individual.

H.R. 3116 deals with the problem of job security by minimizing reductions-in-force that occur when productivity improvements reduce labor requirements. The bill encourages agencies to seek other alternatives before instituting a RIF. These alternatives include augmenting the workload of productive organizational units, reducing personnel by attrition, and providing retraining and transfer of affected employees.

Frankly, I introduced the legislation first in the 96th Congress in an attempt to nudge the administration into doing what they should be doing anyways. Whether the bill's provisions are adopted by administrative action or by statute is irrelevant to me. What is key is that incentives for cost cutting exist and that Congress have a way to make sure that they are being used.

The public sector has lagged behind the private sector in demanding good information on which to make policy decisions. How government officials can administrate, manage, or guide government programs without substantive information on the effectiveness or efficiency of their programs is a mystery. Inevitably, government officials have to make assumptions, judgments, or guesses about what services are accomplishing and with what efficiency. As elected officials, the feedback we obtain is usually from fragmentary reports from constituents (usually complaints), newspaper articles, or from occasional special government reports.

The private sector is different in this regard. Business managers routinely obtain information on profit, sales, share of the market, and the like. These serve as indispensible guides for their future actions.

What all this has to do with the subject under discussion here is that, I believe, mechanisms for more congressional oversight must come hand-in-hand with requirements that the executive branch track performance and unit costs and have incentives to cut costs. Oversight without these things will be little more than flash in the pan disclosures of isolated incidents of abuse and generalized jawboning to do better.

My proposal is that we mate the work of this subcommittee on congressional oversight with the work of my subcommittee on government productivity and produce a vehicle capable of cutting the budget without cutting off truly needy citizens.

Mr. **Long**. Why do we not just proceed with some questions.

Mr. Derrick.

Mr. **Derrick**. Thank you for your testimony, Mrs. Schroeder, but it seems to me you are putting a stamp of approval on the fox being in the henhouse. It seems to me that Congress has the responsibility to set these goals. I do not see where you accomplish anything other than to just perpetuate an already archaic system or one that is not working when you give this responsibility to the agencies. It seems to me you relinquish the responsibility that Congress has been given.

Mrs. **Schroeder**. I guess where I was wrong, I did not say what my preference would be. My preference is not to give this responsibility to them, but that we admit that we are part of the problem, which will be hard for us to say. There are new forms of accounting, the world has moved beyond us, and if we are going to get into the process, we need to start demanding more in the line of productivity.

Barry Bosworth has said nine-tenths of what is wrong with our economy today is that this administration is not focusing on productivity. You have a monetary policy, inflation policy, everything, but you need to bring productivity in as part of it. It is just as true in the public sector as in the private.

I am saying we need to turn our incentives around. Our incentives now are antiproductive in the Federal Government.

Mr. **Derrick**. Are you not giving to the agencies the responsibility that Congress has to set these goals? That is the thing that worries me about your legislation. You are really giving the agencies the responsibility of telling Congress what the goals are going to be rather than the Congress telling the agencies.

Mrs. **Schroeder**. It is very difficult to know whether we set the goals right or they——

Mr. **Derrick**. Be that right or wrong, should it not be our mistake to make?

Mrs. **Schroeder**. I think it is both. We are setting goals now on information that we do not have.

Mr. **Derrick**. Not in any measurable form. It is nothing you can come back to a year or two later and look at and say, "No, this is what we intended to do with the legislation. This is what we are measuring against."

Mrs. **Schroeder**. I guess what I am saying is, maybe we kid ourselves around here a lot. I do not think we are really setting the goals for the agencies right now.

Mr. **Derrick**. I agree we are not, but should we not accept that responsibility? Should we not set up a mechanism by which it can be done?

Mrs. **Schroeder**. Yes; that is what I am really trying to do, and make sure it is measuring real things.

I will tell you why I say this. I worked on the other side for awhile. I was a lawyer at the NLRB.

Congress used to come out and say we want the NLRB to increase the cases per person. Our Regional Director would get us together and brief us. "Isn't that nice? I will tell you what we will do. All of you go out and get at least three of your cases to withdraw, and we will refile them." We kited paper.

Mr. DERRICK. Did you participate?

Mrs. SCHROEDER. I participated. I told them in Washington what was going on, but the response was, "Yes, but it is so much worse at Wage and Hour." This is one of our better agencies.

I got out; I could not stand it. It is the "them or us" theory.

We have asked the private sector, "What would you do." They have said, "First of all, you have to control what the agencies are measuring. You have to control what they are measuring, because until you control what they are measuring, you are setting goals for who knows what. You are kiting paper, and we do not end up with any more productivity—doing more or less.

I am saying we should get involved. But at this point we have never gotten into the management tools that the outside uses. Agencies push theirs on us, then we set the goals in that framework, and it just continues to be measuring garbage.

Mr. DERRICK. How is your bill going to improve this? You will have more of the same and you are putting the Good Housekeeping Seal of Approval on it?

Mrs. SCHROEDER. No; I do not think so. My legislation says agencies must set goals and objectives in cooperation with the appropriate congressional committees.

Mr. LONG. The question I would ask if the gentleman will yield, is how is your proposal going to change what the military does when they come to testify, and you finally throw up your arms and say, "I surrender"?

I am fully sympathetic with what you are trying to do, although we must admit that the level of productivity in the private sector has not been well sustained or very enviable in the last few years. But will your bill basically change the real problem, or just the questions to be asked?

Mrs. SCHROEDER. With the military I do not think we will ever get a handle on it.

When they created DOD, they had 65 employees over there—Harry Truman said there is no way in the world there could ever be more than a hundred. He would roll over in his grave to know there are more than 20,000 employees over there. What I am saying is that we must turn the incentives around. For the first time we would like to stop the spend it or lose it mentality which is always working toward the September 3 goal line. You want to stop that.

Mr. DERRICK. I agree with you.

Mrs. SCHROEDER. But to do that you have to put incentives in. I do not think any manager particularly wants to throw his money away, but if he does not, somebody punishes him. They either cut his funds, his staff, or do something else.

Mr. DERRICK. Why not let the Congress set the goals and the incentives and then later make the judgment as to whether those goals have been accomplished and take appropriate action?

Mrs. SCHROEDER. What are you going to do? Fire them?

Mr. **Derrick**. What will happen is that when the program comes up for review we either make substantial adjustments or decide not to reauthorize it.

Mrs. **Schroeder**. If you have an agency whose goal is to do away with that program, then you have played into its hands.

Mr. **Derrick**. But Congress is the one who makes that judgment, not the agency.

Mrs. **Schroeder**. They are at the controls every day, 24 hours a day I am saying, we need to turn the incentives around so there are incentives to use your personnel more effectively, to use the kind of equipment that will utilize your personnel more effectively and to try to save money as best you can. I am saying the one thing that hits me right in the face is, whether we like it or not, we are part of the problem. If we could get the incentives turned around, we have made a beginning of turning the ship around in the sea. Then you build as you go.

Mr. **Derrick**. Well, I have a real feeling that what you may be doing is just putting more coal on the fire instead of turning around and speeding up the ship.

Mrs. **Schroeder**. How?

Mr. **Derrick**. Because you are turning over responsibilities that belong to Congress to the agencies. You are abdicating our responsibility to determine goals.

Mrs. **Schroeder**. No. Let us go back and look at what Chairman Brooks was saying. He was saying how difficult it is for the committee to set the goals as to where they are going to go for a year, because you are not quite sure where the administration is going to go.

Mr. **Derrick**. These have to be flexible and reasonable, but in addition you need something to go back and measure, and it should be the Congress that does the measuring.

Mrs. **Schroeder**. That is true, but I am also saying we have also measured those agencies at the end of the year by what they did the prior year. If they come in and say, "We have not spent all our housing money because of the interest rate," we punish them and then cut it back. The incentive right now is for them to do everything we tell them to, spend everything we give them, and we do not trust them to come back in and say something different.

I am saying we should take this disincentive away.

Mr. **Derrick**. I am talking about the programs in the agencies themselves. You can measure the agency by the programs they administer.

Mrs. **Schroeder**. Of course you can; but we are not doing it very well. We are doing a lousy job of it.

Mr. **Derrick**. That is what the whole exercise is about.

Mrs. **Schroeder**. I think even in Defense, if you have people in charge of weapon systems and they do not spend all the money, they should retain some of it. In house they could use it for bonuses.

I think they want to work on this, too. We have put some incentives in there.

Maybe all of our words are getting messed up. We have to turn around the incentives. We continue to work on the goals for agencies' programs but we have to maintain some flexibility. They should not feel they have to spend every dollar or keep every single person or run the risk of Stockman's ax. I am not saying abdicate it, I am saying let us use new forms. I think we are still measuring productivity in the public sector as we did under George Washington. We have not looked into how much it costs to process one check and how to reduce those unit costs over time.

Mr. BROOKS. Will the Chairman yield?

Mr. LONG. Be happy to.

Mr. BROOKS. I think you both have in mind making a decided improvement in Government by improving productivity in the agencies. I do not think there is any question, I think Congress has to retain that responsibility, we have it and we ought to exercise it more carefully and more professionally. It is difficult to manage an agency. If they appoint you to manage an agency, Gillis, it is hard to run it; a congressional committee sets up the laws for it and tells you to do it, but you sometimes will do just what you cotton-well please.

But that committee has a responsibility through oversight and by paying attention to it to see that you follow out the intent of that committee. That is the only committee that really understands your agency. The rest of Congress does not.

It means each committee in Congress, when they pass legislation, should follow it through and see how it is administered. They do have to set some method of measuring achievement rather than the old-line rules of how many people do you have and how much money do you spend? The question is, what do you get accomplished?

In some agencies it is difficult to measure. It is difficult to measure how much good is done by some of the—well, take welfare programs. You wonder sometimes whether it helps people make a living, does it help get them fed, or does it plant their feet in the direction of poverty for three generations? Sometimes it does all those things. Those are difficult to measure. But we have to figure out a way to make those evaluations.

Computers are faced with the same problem. They have made a lot of finite accomplishments, but it is difficult to make those judgment decisions. They are learning. We are learning, but we have not done too well. The agencies have not done too well.

I think Pat has a good idea, to give them some rewards for an efficient operation. They do it in private industry, granted; and you might be interested in knowing that a group of Members of Congress—I was invited, did not go—went to Japan, looked at their productivity. One of the more liberal Members of Congress, though he is quite wealthy, said in 5 years the Japanese will undersell us in everything in God's world. Because productivity is so much higher. Productivity means whether we can maintain this standard of living or whether it will retreat. It means whether the productivity at the management level is adequate, whether they have the materials available, whether they have the blueprints available, whether they have enough personnel on hand——

Mr. LONG. Whether that personnel is really motivated to work.

Mr. BROOKS [continuing]. Then on the other side, whether those people are motivated to work at it for 6 or 8 hours.

Mr. **Long**. I do not think the two positions are inconsistent, nor do I think that oversight itself is inconsistent with what Mrs. Schroeder is talking about. It is merely a matter of changing goals that would reward productivity, rather than continuing the existing system of "protect your own rear end."

Mr. **Brooks**. There is many a person who gets to work like she says, at 8 o'clock, got no egg on their shirt at all; stay there till 5, don't hit a lick at a snake.

They have 83,000 people in the social security system, 2,000 in the computer system. Their computer system by all accounts of the management, people who have worked there and quit, had the capacity for doing the job in 1955 and 1960, they did great. Since then they have had a steady decline in their effectiveness. I am talking about nuts and bolts and printing the checks in the proper amounts.

It is impossible for them to do it. There are two priorities out there. The two priorities: it is not hardware, you think it would be hardware, get a new machine. The first priority is getting people who are competent to be program analysts, programers, rather than claims adjusters, getting competent people in and paying them enough to do it. The other thing is computer software. Their system of operation is just antiquated. Everybody says it. The new manager says his top priorities are to redo the software program and try to upgrade their personnel. Now that is sad. That means we are going to try to find out what in God's world we are supposed to do and find somebody to do it. It is pathetic.

Mr. **Long**. There is no question that we are concerned. But let us go back to oversight and a little bit of sunset.

Mr. **Brooks**. That is more of the same.

Mr. **Long**. May I go back to a couple of things in the legislation pending before this subcommittee.

Toby Moffett has come up with an interesting suggestion which is worthy of our consideration. In effect he has said that what we ought to do around here is organize our Congress in December or November rather than do as we did this past year and spend 2 months just sitting around, trying to get committee assignments straightened out. We ought to spend the first 3 weeks of any new session of Congress, and the ensuing second session of that Congress, in conducting, basically, oversight—unstructured without any requirements being imposed. We should see what the agencies intend to do that year; see how well they have done in the past year. Each committee and subcommittee with jurisdiction would review its agencies and programs. This would be without the interruption of quorum calls, and without the interruption of votes on the floor. We really are not doing very much at that time anyway.

Mr. **Brooks**. A 3-week think tank?

Mr. **Long**. A 3-week think-tank approach.

I would like to ask each of you for your opinion.

Mrs. **Schroeder**. I keep saying we have got to keep oversight and productivity on the same track.

The second thing is, had we done it this year, who would we have called in? I am trying to do affirmative action hearings in October. They are coming to my office saying, "I'm just the Acting Director, only been in for 3 months," or "We are on the EEOC Board. We are going to have to disband after October 1"; and on and on.

It may work in the interim Congress, but not at the beginning of a new administration.

Mr. LONG. I might say that Mr. Moffett recommended this for the second session of this Congress as a pilot operation, which is the sort of thinking that I like. It gives us a chance to look at something new without its being so structured and bureaucratic, and involving paperwork.

Mr. BROOKS. It would be wonderful if they would do that. On the other hand, there are a few Members who would feel it was a wonderful time for them to go home and campaign for the spring election.

Mr. DERRICK. That is right. You would have to build a metal fence around the place.

Mr. BROOKS. Then there are some who would be so brash as to schedule a trip abroad, a long trip for 3 weeks with no quorum calls and do a thorough investigative picture there and just see what is wrong with Paris.

Mr. LONG. That would be in January. Then you would want to see what is wrong in the Caribbean.

Mr. BROOKS. You have to be selective about where you go. One of the British isles would be nice—Antigua. I think it would be tough to do but highly desirable.

Mr. LONG. This is a problem that will be with us at anytime, the individual conduct of the Members. While there is a great deal of validity to the points you raise, in my opinion there is no reason not to try this. I think we do have a basic responsibility here. We are going to have additional time as money becomes tighter and tighter to see that it is spent more effectively and responsibly.

Mr. BROOKS. Study a little more and legislate a little less.

Mr. LONG. That is right.

Consequently, we have to explore for new ideas to this approach. That is why I am particularly intrigued with Mr. Moffett's suggestion.

Mrs. SCHROEDER. One thing I have to say is that, I bemoan the day they ever called us legislators. Because they call us legislators, we have the compulsion to legislate. It would be interesting to see the attendance in oversight hearings versus legislative hearings. I think you would find a great discrepancy. I know this, as chairman, that most chairmen find it difficult to get Members in.

Mr. LONG. The answer to that is productivity. How could we make it politically productive for legislators to involve themselves in the oversight process, to study the programs and the effectiveness and productivity of those programs that have been legislated and enacted by the Congress?

Mr. BROOKS. That is a good deal. I have worked on it for 30 years.

Mr. DERRICK. Would the gentleman yield?

Why do you not go a step further? Why not close this place down for 6 months out of a year?

We are legislators but I would take it a step further and say we have become professional politicians. I served in the State legislature. One of the good things about that was that you were a citizen legislator, it allowed you time to go back and immerse yourself in the commercial life of the community and the social life and what not. And you do not go back as a Member of Congress or a politician. As far as I can tell by the scheduling this year, we could have accomplished what we have done in less than 6 months this year, and I would be willing to take a cut in salary to be able to go back home and practice law and look after the Congress and do whatever.

Mrs. Schroeder. I would tend to agree with you.

Mr. Derrick The way we are going on the budget resolution, we are going to only have two votes a year, anyway.

Mrs. Schroeder. That is right. The first committee I had was oversight over special days, Strawberry Day, Tobacco Week, and whatever.

We also had jurisdiction over the Census Bureau. I really wanted to look at what the Census Bureau was doing. I had some real questions about how they were operating.

We had 900 and some odd bills in there for Cherry Week, Clown Month, and Clean Car Day—I remember trying very hard to say to people, let us not do these, let us do oversight. I was told that you have to do all these to get your face in all the special interest magazines.

We get so wound up in all that legislation that we never do the oversight.

The other thing about oversight is that you do not make yourself very popular with that agency when you ask them questions. They would just as soon have you over for coffee. You get to know the new head, you have tea and crumpets together, they invite you to the Kennedy Center, you sit in the box, and if you ask any questions about how they spent their money, you are considered persona non grata.

Would you not say that is your experience?

It is much easier, if you are a chairman, to just consider whoever you are overseeing as the wittiest—especially in armed services. You get free flights, and all sorts of things.

If I ever need the armed services of the United States to protect me, I am in trouble. I've got to go higher.

Mr. Brooks. You are an ombudswoman.

Mrs. Schroeder. Something.

Mr. Long. One comment about sunset legislation that may be interesting. As Chairman Brooks knows, when the matter was originally referred to this committee, I said I had great reservations about it. A lot of people feel it is an idea whose time has come and gone——

Mrs. Schroeder. Sunset.

Mr. Long. But if you look at the omnibus reconciliation bill we encountered earlier this year, more programs were sunsetted by that one act than would have been terminated by sunset legislation in the next 10 years.

I wonder if the reason for that is because to some extent we are not taking care of our business. While it is easy to criticize the Director of the Budget and the President for taking that drastic action—and I know that all of us who believe strongly in the legislative process were concerned about the method by which they went about this, when matters get as far out of hand as they did, this fosters indiscriminate cutting and makes it possible with the help of the American people.

Mr. **Brooks**. When you stick your neck out, you get it chopped. The programs were vulnerable. Some had serious problems——

Mr. **Long**. Could the committee get your opinion, in view of the reservations that you have, that maybe what Mr. Moffett is suggesting is worth a look?

Mr. **Brooks**. Sure. I think it is possible, but you would have to get a real understanding with the Speaker, the majority leader, and the leadership, if they want to bring Congress in and form Congress in November. We will not be through until November.

Next year, when they elect Congress in November, as soon as they get elected they will come up here December 1 and organize. They had that early organizing deal before, and I do not think it gained us very much. You have all the rules for seating members of the committee. The Steering Committee makes committee assignments and there are big political fights. And we will have more next time.

Mr. **Long**. Bloodlettings.

Mr. **Brooks**. You know how it is in the kitchen, it gets warm. I just think it is a pretty major change. I do not object to it, but I have been here till December 24 and I have three little children. Life is too short to have to hang around here until Christmas.

I think most Members will get the idea sooner or later. So, I do not think after December 15 you will get much cooperation.

I think if they come in at the regular time and try to expedite—the reform movement has set Congress back about 20 years as far as management goes.

The time was when Rayburn would say, "I believe we can get you on that committee," and you would get on it. Now you have to talk to 30 Members and the leadership and every Member because they can appeal in the caucus.

I think they ought to streamline that, make that a simpler process. Then when Congress comes in, as soon as they finish hassling about the routine—you know, it is like getting a defense appropriations through to get on a subcommittee.

They go through—"You want to be on this subcommittee?" Then you start over with the second round. If one Member is gone, you have to stop everything. He still has his rights; or you have to make an agreement, that if he is not there, he loses. Then he will say, "You all treated me unfairly." Republicans and Democrats. It is kind of a mess.

The chairmen used to work it out much simpler and just as well. People got what they wanted; they were generally happy. If they were not happy, you promised them something a little later and gave it to them.

Mr. **Long**. And generally they did not know any better.

Mr. **Brooks**. It worked out all right. They treated me fairly when I came to Congress and you, too, Gillis.

But when they do get started, if they want to spend 2 or 3 weeks on an in-House study of their responsibilities, that would be wonderful, but it would be difficult to get Members to do this when they have phone calls in the office, people in their district, people in their district office, people wanting you to make a speech. People now would rather have their Congressman drinking coffee with them than being here.

Mr. LONG. If we look at the question of making the Congress and Government more productive, unless we do something like this, are we really going to succeed? Or are we ever going to do the soul searching required to do what Mrs. Schroeder is talking about here, reversing the productivity decline in Government.

Mr. BROOKS. If they just want to have another evaluation of where we are today, this is where we started; and bring it all up to date and this is what the agency has planned for the future—that is paperwork. You have to do better than that.

Mr. LONG. Is it not going to be necessary for most of the Members of this body to wave the white handkerchiefs and say I quit before they are willing to even consider anything as radical as what Mrs. Schroeder is suggesting, changing the rules on productivity within the agencies?

Mrs. SCHROEDER. We have all been around here longer than most anybody in the Congress, even though we have not been here that long. If this is so, it is hopeless, because we will never get anyone educated before they get out.

I am terribly worried that we be very careful before we adopt anything. The whole notion of being process liberals is something we can get dinged with. You keep adding on more oversight, more collection of data—and I still say, it is garbage in and garbage out.

Defense is the classic example. We have layered in everything you can think of——

Mr. BROOKS. Do they send people over to brief you, Pat?

Mrs. SCHROEDER. Yes; they come over for advice a lot. They are trying to make me a stewardess on the AWACS.

Mr. LONG. That would be a good position for you.

Maybe not only the military, but some of the top people on the committee had that in mind.

Mr. BROOKS. But investigation is not a futile job. Investigation is something that you probably just see the top of the iceberg, one-seventh just extending above the water. That is the only part we get a shot at.

The really good scams are run by experts and nobody ever knows about it.

Mr. LONG. What do you see from your experience, your broad responsibility, and from watching committees perform their oversight responsibilities—without setting up a bureaucratic system, of which you are justifiably wary—how do we carry out this function and see that we do get to that scam that is beneath the surface? Do we need to do anything more?

Mr. BROOKS. The committees that have legislative responsibility also have some oversight responsibilities and opportunities and jurisdiction.

Government Operations has the right to go into any agency. We try to pick. We have seven subcommittees. They work at it and pick those which they think are most productive, but you cannot do it all. So, there is plenty of work to be done and the committees themselves have a slight tendency after they have passed the legislation to feel a proprietorship for that legislation and they defend it. They do not investigate it; they defend it.

Mr. **Long**. They are protective of it.

Mr. **Brooks**. In the good old days, they used to appoint half the people in the agency.

Mrs. **Schroeder**. I think the best piece of oversight and best information we get is from that original Inspector General's bill. They were supposed to be independent and out from under the agency head and what have you. I think they did some good work.

Mr. **Brooks**. But the Defense Department—though the administration said in good faith they were supporting it in principle, but you know when the Defense Department is against something, they will say, yes, sir, they will have four generals telling you yes, sir, we are all for it. Then they will have 4,000 brigadier generals and 5,000 contractors, trying to gut the legislation. You can really count on their support. This is an issue right now in the Senate. They have not acted on the Inspector General position yet. The Senate has been leaning toward letting the Secretary of Defense control the Inspector General for the Defense Department which will spend $136 billion this year. The average expenditure for the next 5 years will be $1 billion every day except Sunday. They will rest on Sundays; their hands get tired passing it out.

Mr. **Long**. Blue law.

Mr. **Brooks**. That is right. They cannot spend it on Sunday, but they will spend an average of $1 billion every day for the next 5 years. And the Inspector General will report to the Secretary of Defense.

Now I will be honest with you and you consider now, again if I were Secretary of Defense and I appointed the Inspector General and he was a great man, a wonderful man, an accountant, a lawyer, a CPA, a man of integrity. I would shoot him down if he investigated anything I didn't want investigated and everybody there knows it. They are not going to appoint somebody who will make an objective evaluation. That is what they do not want. They say the Defense Department is so sensitive. All they are doing is spending money. The secrets in the Defense Department are kept from the Congress and the American people, but probably not from the Commies. The Albanians know what they are doing, they just want to make sure Congress does not find out. If we do, it would be terrible.

Mrs. **Schroeder**. I think this gentleman has worked hard on this. We all laugh, but he is 100 percent correct. We are going to have a trained poodle over there, or they will not let them in. We will do oversight and that trained poodle will be there and they will be wonderful and marvelous, and anybody who has questions about it will be "pinko freaks."

The State Department is also very sensitive. Every Department shows up with their very special needs and a lot of times the committees go along with it.

There are ways to do oversight. Part of it is not to have a committee of 46 people all getting 5 minutes to ask questions of the agency head, which is ridiculous.

Mr. **Brooks**. You cannot perfect an investigation if everybody only has 5 minutes. A well-orchestrated defense can defeat 45 people questioning.

If each person has 5 minutes they can romance you for 5 minutes easy, and they do if the question is hard. They talk about the history and the problems relating to it.

Mrs. **Schroeder**. You should all sit in on these big hearings doing oversight. They have a briefing, these guys get 5 minutes, so you spend your time saying how much you like Louisiana and you remember the crabcakes and all you do is you have a review.

They do that and you end up not having any information, that matters. You need hard data, you have to keep it tied to productivity, or we are just wasting our time, and you have to have some people in-House that are not answerable to the Cabinet officer. Otherwise they are trained poodles and not junkyard dogs.

Mr. **Long**. Mr. Derrick, do you have something you could say to conclude this hearing which would be descriptive?

One of the things I could say is that it was probably the best show on the Hill because of the elite cast of witnesses.

Mr. **Derrick**. Considering the time of the week, it was probably the only show in town.

Mr. **Brooks**. It ain't prime time.

Mr. **Long**. It does point out the seriousness of the problem. We did it in a jocular mood, but all of us realize how serious and complex the problem is and how difficult it is to try to work out something amongst the 435 people who are as independent as the Members of the House of Representatives are. We have to try to structure an approach to the problem that would not be so burdensome that it tears the oversight process apart and makes it completely unproductive. At the same time it must give enough freedom, but not so much that you cannot call and insist that individual Members participate in the process.

We are grateful for your contribution and we are happy you were with us today.

This committee stands adjourned.

[Whereupon, at 11:15 p.m., the subcommittee adjourned, to reconvene at the call of the Chair.]

CONGRESSIONAL OVERSIGHT OF FEDERAL PROGRAMS

FRIDAY, OCTOBER 2, 1981

House of Representatives,
Subcommittee on the Legislative Process,
Committee on Rules,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room H-313, the Capitol, Hon. Gillis W. Long (chairman of the subcommittee) presiding.

Present: Representatives Long, Frost, Hall, and Taylor.

Mr. **Long**. The subcommittee will come to order.

The photography and television coverage of this hearing has been requested, and if there is no objection it will be allowed.

Without objection, the statement of the Honorable Don Albosta of Michigan will be included in the hearing record following the proceedings of today's hearings.

I am pleased today to welcome Hon. Toby Moffett of Connecticut. Toby, you are one of the innovative thinkers of this Congress. Not only are you ingenious in developing new ideas, but you are diligent and persuasive in your efforts to follow through on them.

As a member of a number of the subcommittees, including a couple of the Energy and Commerce Committees, you have broad experience in oversight responsibilities. As chairman of the Subcommittee on Environment, Energy, and Natural Resources of the Government Operations Committee for a relatively short period of time, you have compiled a distinguished record of oversight activities. And you have been the instigator of numerous constructive discussion groups considering, on an informal basis, how to improve the oversight performance of the House.

We have greatly benefited from your testimony before a joint subcommittee hearing, conducted on July 13 by this subcommittee and the Subcommittee on Rules of the House and chaired by my good friend the Honorable Joe Moakley. Your remarks made an eloquent case for a moratorium on legislative action for a period of time to permit committees to engage in intensive oversight hearings.

Since that testimony you have drafted a proposal calling for a specific experiment on oversight next January. Your proposal, House Resolution 218, has been referred to this subcommittee. We are pleased to have the opportunity to hear about your resolution in detail. Proceed in your own manner.

STATEMENT OF ANTHONY TOBY MOFFETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. MOFFETT. I do appreciate the opportunity to be here, and particularly to appear before you. Let me thank you not only for this opportunity and for your serious attention to this matter, but also your staff and the staff of the Rules Committee.

I do not think we have ever experienced a more receptive kind of attitude from any committee than we have on this item.

Now, that is partly the result of just good staff work and, I think, a reflection of your own interests in this matter.

Finally, it is the fact that this proposal is not partisan in any way, could never be labeled as such and certainly is not an ideological item. It is just something that makes good sense.

As I said, in my testimony earlier this year, this is the kind of proposal on which you could get elements of the left, right, and in between to agree.

Since that testimony, I have spoken with various people in trade associations, lobbyists of one kind or another—whether they have been in the so-called public interest movement, environmental, consumer, common cause, the National Association of Manufacturers, or the oil and chemical industries—the fact is they all think it is a good idea, and they think the proposal is even modest. They even say that in a more perfect world, we should have something even more pervasive and with a broader sweep.

The fact is, you and I know it would be great if we had 3 or 4 months devoted solely to oversight rather than legislating.

Rich Preyer, our former colleague and good friend, used to say, "process is substance," and of course, he meant the process by which we operate in large part controls the quality of the work that we do. This is something I have recognized for as long as I have been here, which is not all that long and I am sure you found this in your experience here.

There has been this perception on the part of the Members and people who come in contact with the Congress, that we have to make things more sensible here, and we have to enable Members to step back, and take a good look at the big picture.

Dick Gephardt said:

> We're like automatons. We spend our time walking in tunnels to go to the floor to vote . . . (and that leads to) shoddy committee work with no time to come to an understanding, no thought to building coalitions.

The article in which those remarks appeared went on to say:

> Instead, staff write bills, and the bills are rewritten on the floor. The frantic pace leaves little time to mull over important issues facing the country.

In that group with which Dick Gephardt was working at the time was Tim Wirth, our colleague from Colorado, and also a then, if you will pardon the expression, rather obscure two-term Congressman named David Stockman. I think that the fact that Dave was involved in that group—and I remember it well, remember talking with Dave frequently about it—indicates we do have the makings of a broad coalition here.

If only Dave Stockman's concern about the need for more oversight and analysis of what works, and what does not work in terms of the current laws, had spilled over into the budget cutting extravaganza and the reconciliation process, we all would have been better off.

Leon Panetta, our very talented colleague who was the reconciliation chief has said many times with regard to this proposal and with regard to the general problem, that the one thing that was really missing from reconciliation was the kind of scholarly deliberative process through which we figured out what was working, and what was not.

Mr. LONG. One thing Dave Stockman learned from that exercise is that procedure is substance. When he devised the procedural basis to end absolutely or disrupt programs based on laws that had been in existence for many years he caused those of us who are students of the institution a great deal of concern.

Mr. MOFFETT. Exactly. Well, we do have the resolution now. It is, as I said, a modest one, but an important one. If we could only take the first step and set the precedent, we could be really on the road.

You mentioned the gentleman from Michigan, Mr. Albosta. He and I have spoken, and I think we are on the same track really.

This resolution would provide for a 3-week oversight season demonstration project. I would have the Speaker initiate a one-time legislative moratorium beginning January 1982. After consulting with the minority leader, the Speaker would set aside this period to enable committees to perform oversight and investigation hearings without interruptions by legislative bells, votes, and the consideration of legislation.

We have made the appropriate concessions.

Let me give you an example of what my own two Environmental Subcommittees are facing. It might shed some light on why this resolution is so important. I serve on Henry Waxman's Health Subcommittee which authorizes most of the Environmental Protection Agency's programs, and I also chair the subcommittee that you mentioned which has the EPA oversight jurisdiction.

We are watching the President dismantle EPA from the inside. The President has proposed at least a 60-percent reduction in agency real purchasing power for the first 20 months of his administration. Between 25 and 40 percent of the staff of that agency will have to be terminated.

This evaporation of agency resources will take place over the same period as the EPA workload is scheduled to double. No one disputes that.

In the 1970's, we in this Congress directed that there be established laws protecting society against toxic effects of chemical revolution. We modified or adopted new laws affecting air, drinking water, pesticides, and radiation. Some of these laws were, of course, as laws are, poorly written, imperfect, not drafted to maximize industry's creative capacity to get the job done.

We went back and put more flexibility into those laws. The recent steel stretch-out bill that you are familiar with is one example where we improved the Clean Air Act. But, the problems at which these laws were directed are very, very real problems. Many of us feel that the budget which the administration is proposing for EPA is essentially a "time-bomb in the basement" approach to environmental control.

The problem is that, once again, we are not having the time to take a good look at what is working and what is not, and to make the appropriate changes.

These programs that I am referring to here, none of them passed without dissenting voices being heard. There is just no question about that.

I think the case could be made that if we had developed this process 10 years ago for finding out what works and what does not, we wouldn't be in this predicament today. This oversight season, an investigative rather than legislative period, would allow Members to step back and conduct a much needed sober examination of those laws on the books.

There are some practical concerns. Two possible defects were cited during your hearings last Friday. Members commented that the subcommittees would devote hearings to similar topics, and this could be the case because of overlapping jurisdictions.

Second, it was suggested once they were freed from the yoke of legislation and floor activities, the Members might treat the oversight season as a holiday.

These are very legitimate, serious concerns, but I think we can recommend as part of the legislative history, that the Speaker and minority leader use their good offices to coordinate the oversight schedule. And, we should meet cooperatively between the time of the passage of the resolution and Christmas to insure duplication does not take place.

Leadership can work on this, and it is really simply putting a list of the subcommittees on a blackboard and getting some agreement on the problems, and the laws that need to be addressed. Joint hearings can be held when appropriate.

With respect to the attendance problem, there is no assurance there.

I think in many respects, this is a problem that can be addressed again by the leadership making a big deal, if I might use that expression, out of this oversight period.

If the media focuses on this as a serious time of year, and a new direction for the Congress, then the folks back home can legitimately ask their Member, "Where were you when your committees were evaluating the Safe Drinking Water Act?" "Where were you when your committee was looking at OSHA and how it affects the industry and the workers in our particular district?"

That is it, Mr. Chairman.

I do not profess that this is a perfect proposal but I do think it is something we can grab onto, though, to set an important precedent and get the Congress pointed in that direction.

As I mentioned in July, our children are still reading textbooks that say that a good Congress, and the best Congress, is one that passes a lot of laws.

My daughter, probably at this moment, is reading such a textbook in the eighth grade of a very good school system. The problem is, the children are not being taught that a good Congress is one that makes all laws work, as well as makes new laws. That new yardstick is not being created, and I think we can do a lot to create that. It would not be possible if the Rules Committee were not taking this kind of thing seriously, and they are, and for that we are very grateful.

[Mr. Moffett's prepared statement follows:]

PREPARED STATEMENT OF HON. ANTHONY TOBY MOFFETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Chairman Long and members of the subcommittee, I am delighted to appear before you today as you continue your historic hearings on the congressional process referred to as "oversight." Our former colleague Richard Preyer, with whom I served on the Commerce and Government Operations Committees, was fond of saying "process is substance." What Representative Preyer understood, as you evidently appreciate, Mr. Chairman, is that the process by which we operate often controls the quality of our work product here in Congress.

Who among us will dispute this fact? As our schedule has become more rigorous and structured—with authorizations, appropriations, concurrent budget resolutions, and reconciliation consuming so much time—we have lost the opportunity to legislate thoughtfully. Our time is constantly eroded by meaningless procedural votes, often called intentionally to delay the work of the House. The average citizen would be appalled to learn that these votes—to approve the House Journal, to begin consideration of bills under the 5-minute rule, and so forth—cost $25,000 each:

As staggering as this figure is, the important impact is what this time shortage does to the workings of the House. Representative Dick Gephardt may have captured it best when he said: "We're like automatons. We spend our time walking in tunnels to go to the floor to vote . . . (and that leads to) shoddy committtee work with no time to come to an understanding, no thought to building coalitions."

These remarks were printed in an article titled "Newly Formed House Group Opposes Tuesday to Thursday Work Tradition," published in December 1979, in the Washington Post. The article continued by explaining: Instead, staff write bills, and the bills are rewritten on the floor. The frantic pace leaves little time to mull over important issues facing the country. The height of irony, of course, is that the three-member group identified in the article consisted of Dick Gephardt, Tim Wirth, and an obscure, second-term Congressman from Michigan named David Stockman.

We know from painful experience that Mr. Stockman's concern about the process did not spill over to the budget-cutting extravaganza for which he was most responsible: reconciliation. For it would be nice to think that Senators and Congressmen, who sat on one of the fifty-plus budget conferences, were making decisions to cut programs based upon a scholarly, deliberative analysis. But we know that those decisions were made in an environment in which good information was altogether absent. For this reason alone, we must realize that the House needs a process through which we can analyze what works and what doesn't. Proper and thorough oversight is the means to that end.

When I appeared before the committee on July 13, I suggested a remedy which I have advocated since coming to Congress. I urged the committee to consider imposing a legislative moratorium/oversight season. During this period, we would set aside the legislative mantle and focus exclusively on oversight. Committees would cease holding hearings related to proposed legislation. Instead, they would examine the manner in which existing programs were being implemented. We would escape from the cycle of legislation in order to pause and reflect. We would reexamine why we created programs and reevaluate the goals of those programs.

Because of the kind reception which your committee afforded my proposal, and because you were considering bills like H.R. 2, H. Res. 100, and the chairman's H.R. 58, The Sunset Review Act of 1981, I drafted a resolution to implement my oversight season proposal. You now have under consideration H. Res. 218, cosponsored by Representatives Stark, Markey, Crockett, Edgar, Wyden and Eckart.

This resolution, if passed, would provide for a 3-week oversight season demonstration project. The resolution directs the Speaker to initiate a one-time, legislative moratorium beginning January 1982. After consultation with the Minority Leader, the Speaker would set aside this period to enable the committees to perform oversight and investigative hearings without interruptions by legislative bells, votes and the consideration of legislation.

Naturally, some exceptions would be made. First, the Committees on Appropriations, Rules, Budget, and Standards of Official Conduct would be exempt. Second, the Speaker would be empowered "for good cause and on a case-by-case basis" to permit exceptions for the consideration of emergency legislation. By and large, the moratorium would be enforced enabling the committees to operate without interruption and perform their oversight responsibilities.

Congress has relied upon oversight throughout our Nation's history. The Supreme Court, commenting upon congressional investigations in the *Tenney* v. *Brandhouse* decision, called legislative inquiries "an established part of representative government." Congress has a clear track record when it makes the policy decision to perform oversight. History is replete with examples of investigations which were successful, that produced results and which made our country better in the long-term. The first was in 1792, when the House launched its first Select Committee investigation to determine the cause of the disastrous Ohio frontier defeat by Indian tribes of American troops under the command of Arthur St. Clair.

Subsequent investigations are ingrained in the minds of Americans because of words like "Credit Mobilier," "Money Trust," "Teapot Dome," and "Watergate."

Isn't it clear that now is the time to rededicate ourselves to this necessary congressional prerogative? As we proceed through the most massive shift in government programs and commitments in our Nation's memory, we must take some time for thought and reflection. This is particularly necessary because of the proposed changes which are still being sent by OMB and the White House to Congress.

Let me discuss, briefly, what my two Environment Subcommittees are facing.

I serve on the Health and Environment Subcommittee which authorizes most of EPA's programs. I chair the Government Operations Subcommittee on Environment, Energy and Natural Resources. In these capacities, I am watching the President dismantle EPA from the inside. Since taking office, the President has proposed at least a 60-percent reduction in Agency real purchasing power for the first 20 months of his administration. Between 25 and 40 percent of the staff will have to be terminated. This evaporation of agency resources will take place over the same period as EPA workload is scheduled to double.

In the 1970's Congress decided to establish laws protecting society against the toxic effects of the chemical revolution. Congress modified or adopted new laws affecting water, air, drinking water, pesticides, and radiation. Some of these laws, undoubtedly, were poorly written, not drafted to maximize industry's creative capacity to get the job done, to apply effective levels of protection at the least possible cost. But the simple fact is that the problems which these programs were enacted to address are real. Crippling the Agency's ability to wage the war against pollution will not cause toxic materials to disappear. The budget which the administration is proposing is, essentially, a "time-bomb in the basement" approach to environmental control.

Congress is a pluralistic entity. None of the bills which created these programs passed without dissenting voices being heard. Some of us may applaud the President; some have lost confidence in much of what government has set out to do. But I think that the case can be made, as I said before this subcommittee on July 13, that if we had developed a process 10 years ago for finding out what works and what doesn't, we would not be in this predicament today.

An oversight season would allow Members to step back and conduct a much-needed sober examination of those laws already on the books. We could effect change without having to legislate. We could identify dead wood and draw attention to those programs which are effective. Nothing could be better for the process or for the credibility of our institution.

Let me conclude by discussing some practical concerns.

Two possible defects were cited during your hearings last Friday with my proposal. Members commented that subcommittees would devote hearings to similar topics. This could be the case because of overlapping jurisdictions in the House committee structure. Second, some suggested that, once they were freed from the yoke of legislation and floor activities, some Members might treat the oversight season as a holiday. These are fair concerns.

If House Resolution 218 is adopted, I will recommend as part of its legislative history, that the Speaker and Minority Leader use their good offices to coordinate the oversight schedule. We should meet cooperatively during the time between passage of the resolution and Christmas—at the member and staff levels—to insure that duplication does not take place. Joint hearings should be convened when jurisdictional disputes cannot be settled amicably.

With respect to attendance, no sure answer can be given. In the other body, 25 Senators missed the final vote on the conference report on the tax bill. We have had some embarrassing moments in this body as well. Members are always asking "where is it best for me to spend my time?" They are subjecting their schedules to cost-benefit analysis.

To guard against sparse attendance, let me make some suggestions. First, good planning, good media coverage, and good bi-partisan cooperation will make the oversight season a success. We can make the hearings conducted during the oversight season an experience which Members will not want to miss. Second, with appropriate publicity, our constituents will be aware that something special is happening in Washington. The Members will be accountable to the people they serve. Constituents will be able to ask "Where were you when Congress was looking over the bureaucrat's shoulders?" This will be the best policing mechanism of all.

To recap: My proposal is to set aside a 3-week period during January 1982, for a legislative moratorium/oversight season. During this time, the committees of the House will meet to examine the manner in which existing programs are being implemented. My resolution constitutes a demonstration project. If successful, I will advocate that it be made a permanent part of the House schedule. For those Members of Congress who have proposed similar changes—be they Sunset Acts, mid-program review, or biennial budgeting—this demonstration project should provide practical data by which they can craft even larger, procedural changes.

There is a good government coalition which will back this project. It would be good for Congress; it would be good for the country; and I urge its adoption by the Committee and the full House.

Again, let me express my gratitude to you, Mr. Chairman, for holding this hearing and for considering my resolution, I would be delighted to answer any questions which the committee might have.

Mr. Long. Thank you for your appearance.

We would like to proceed in a very informal way and discuss this matter for a few minutes.

I think you are correct; and I agree with you, that it is a very modest proposal. It is unfortunate it has to be as modest as it is, but we have learned from experience around here that if we attempt to structure this too much, it results in so much conflict that we don't get anything done. So I greatly appreciate your willingness to move in this modest way, which is probably the approach most likely to be successful.

We are necessarily faced with the problem of scheduling, because we have no way to control attendance. What do we do about this?

It is imperative, as you suggested, that we have leadership's aggressive support for an oversight interval, if we want it to succeed. I am very interested in proceeding and possibly reporting the bill.

The one hangup I have is wanting assurance of support before I am willing to proceed. If we attempt to report the bill without that kind of cooperation and interest, we might end up doing more harm than good by spending the effort without being productive. We might consequently deny someone else the opportunity of trying at a later date.

I share with you the feeling it is important to spend our time seeing that laws work rather than making new laws.

As a practical matter one of the things that has to be done is to find some way of making this politically rewarding.

Right now what is politically rewarding is a new bill you can wave the banner and run with, and not legislative oversight.

One of our more thoughtful Members, Mrs. Schroeder, as you know, very intelligent, very aggressive, not in any way timid, and willing to move, said something here last Friday that really caused me some concern.

I asked her what her experience had been with oversight on the Armed Services Committee.

It discouraged me greatly to find out that she is almost of the opinion that you can't conduct oversight, that you have to attack this whole problem a different way, that oversight, particularly when you try to do it with the armed services, won't work. First they march in lieutenant colonels, then they go to colonels and generals; then they go from there to the assistant secretaries, and then they go to the secretaries, and then they go to the fellows with the big brass, four and five stars, and march them in. They just absolutely wear you down. By being told over and over that everything is fine, and this is the greatest weapons system you have ever seen, it is going to put us here, it is going to do this and do that, she has arrived at the decision—not lightly, I'm sure—that we have to go to a basic structural change of the law to reward the people in the agencies for affirmative performance. We must solve the problem this way rather than try to do it by legislative oversight, that legislative oversight is futile.

Mr. MOFFETT. I think that is a problem. It is probably most severe on that committee, not because Chairman Price is not interested in finding out what works and does not work but because you are faced with that kind of bureaucratic, military, highly structured situation.

We run into it with the Department of Energy or EPA as well, and you have to be creative and not just hear from the official agency representatives.

There is no reason that the Armed Services Committee can't call GAO and they can call the Republican Study Conference which said we can find billions of dollars in savings.

There are all sorts of people who have made suggestions. I think it can be done. The gentlewoman from Colorado is a bit worn down from trying, and I am sure she will be rehabilitated or revived.

Mr. LONG. She has a unique ability to rise to the occasion.

Mr. MOFFETT. I know how she feels, and I have heard her say that before.

She is a bit perhaps discouraged.

Mr. LONG. What do you think we could do with respect to the question of attendance?

Mr. MOFFETT. I think, I really think it is partly the Speaker and minority leader having to put their imprint on this.

It is partly full committee chairmen. More than anything else, let's face it, it is the attention which is paid to the process as a unique and meaningful period by the media. If the media does not buy it; if they don't really pay attention and devote resources to it, and so forth, you are not going to have the realization back home that something special is going on.

This institution, Mr. Chairman, I don't know what our approval rating is now, but it has never been extremely high. Here is an opportunity for us to really watch the rating of the Congress go up, because you know and I know that there is not an audience that you go before that does not think that this is a good idea. I go as more a liberal than anything else and say it, but you can be a conservative and it does not matter. They all say, "Yes, this is a great idea." There is no opposition to it.

If we can create the realization something unique is happening and attendance may be a problem the first year, maybe the second year, but I think ultimately it starts becoming a campaign issue in both parties. Voters will say, "Where were you when this committee was looking into the groundwater contamination problem in Texas?"

Mr. **Long**. One way to make it politically rewarding, that I found from my experiences as counsel on a committee in years past, is field hearings.

Mr. **Moffett**. Definitely.

Mr. **Long**. Emphasizing field hearings would greatly encourage participation in attendance, and it certainly gets a great deal more media attention in Detroit when you talk about clean air than it does here, with the competition in Washington.

Mr. **Moffett**. I know in my own little corner of the Congress, my ranking minority member, Mr. Deckard of Indiana, is ready. He will be ready to go at any moment to do that sort of thing. He is that type of person. He would like to get out there and find out what is working and what is not working.

Mr. **Long**. Feel free to participate and ask any questions at any time. We are performing in a very informal manner.

Mr. **Hall**. Have we talked about 2-year budgets? Because the deadlines we have to make, it is almost impossible to get to oversight. I realize this is probably one of the reasons for your bill, but the 2-year budget seems to work so well in the State legislatures.

Mr. **Long**. Mr. Panetta previously has pushed that. It really is very closely tied to the ability to perform meaningful oversight. A program has to have time to work before you have to act on it again.

Mr. **Hall**. It really makes sense, because the first year would involve the budget process, and the second year would cover oversight.

Mr. **Long**. There is another advantage assuming we decide to report it and if leadership actively supports it. As a result of our continuing legislative hearings, and if we can get broad participation among all the Members of the House, one of the side effects might well be a recognition of the need for, and a push for, a 2-year budget process.

Mr. **Moffett**. I think you are right. A couple of years ago, and I say as one who comes from an authorizing committee, you would have had much more of a problem with the chairman and ranking members of authorizing committees. But let's face it, there has been this realization that their role has, let us say, changed in a dramatic fashion given the budget process. Now, what we really need to do is get the authorizing committees to believe that there is a mark to be made in oversight, not just by oversight subcommittees but by all subcommittees. Take someone like Henry Waxman who is really a great chairman, and ask Henry, how much oversight have you been able to do this year.

He has to come back to what my colleague from Ohio was saying, until you give us some breathing room, we can't do it. He wants to do it.

Mr. **Long**. Where do you think the conflict in allocating time comes from?

Does the conflict really come from floor activity, or does it come from committee activity?

Mr. **Moffett**. Both; that is my own view. Again, my colleagues may have different opinions on this. I don't say this in any condescending way, but you have to practice at oversight to get good at it. You really do.

There are some of our colleagues who chair committees, and they hold academic seminars. You might just as well be at the Woodrow Wilson School as here because, in truth, they are not really looking for the smoking gun, as we say.

They are not really trying to find out where is the problem in this particular program, how it is being implemented.

I say, not only with regard to my subcommittee staff, but again, our minority staff, they have really developed over the years an ability to get those witnesses in and ask the right questions and build a record and change behavior without ever, or without hardly ever, having to go and introduce an amendment to do it.

You need that breathing space, and the conflicts come from committees that have to mark up legislation on which you have held hearings.

Mr. LONG. You know, one of the first activities we participate in every year in second sessions of the Congress is the funding resolution.

Would you be of the mind that we make an exception for the House Administration Committee and allow them to conduct their hearings and proceed with funding resolutions during this 3-week period?

Mr. MOFFETT. Are you saying it has to be done then?

Mr. LONG. As a practical matter it does, because the committees really have a great deal of difficulty getting moving and getting their moneys unless they can get their funding resolutions approved by the House Administration Committee.

That is generally what this time is spent for.

Mr. MOFFETT. I suppose it does not pull away from Members very much to have those things going on. There are other things House Administration could be doing in terms of oversight, FEC, for example, Mr. Chairman.

Mr. LONG. I am not suggesting they should be relieved of their responsibility with respect to oversight.

I am saying this is a necessary type of housekeeping function that essentially nearly has to be handled during this period.

Mr. MOFFETT. If that is the case, then you have to try to do it and do it in a way that didn't yank these various subcommittee chairmen off of the principal task at hand.

Mr. LONG. One other operational question is, should the subcommittees for oversight do what I really think would be best, and go on major field hearings?

Pat Schroeder talks about the generals marching in.

Suppose you go and pull in the tank drivers and ask, how does this tank operate. You go to Fort Bliss, Tex., and do this. The results would be a lot different than having a colonel or general tell you how beautiful that tank is as a technological instrument. That becomes expensive.

We are all, of course, under a great deal of pressure and it would require, in my opinion, additional funding of some of the subcommittees and committees if we went into this. I for one feel that money would be well spent.

Mr. MOFFETT. I don't think you would have a problem selling that to the American public, and if they can see that you are out there doing the work, I just don't think you are going to have a problem selling that.

Mr. LONG. Mr. Frost.

Mr. FROST. Go ahead with the others. I may have something.

Mr. LONG. The gentleman from Missouri.

Mr. TAYLOR. Do you anticipate at the conclusion of the oversight committee's activities, that the committee would report to the House the findings? I don't see anything in your resolution that a report would be required.

Mr. MOFFETT. Yes; you know what we do on Jack Brooks' committee; we issue reports.

We think they are very important, very useful. We just have been through a real bipartisan thing on Synthetic Fuels Corporation.

Mr. LONG. Would the gentleman yield?

Would you be of the mind to support an amendment to your resolution that would impose a reporting requirement of some modest means on your piece of legislation?

Mr. MOFFETT. I certainly support that.

Mr. TAYLOR. I think it might be good if we had that, Toby, because the time and the effort and expense that is going to be put into this certainly merits total disclosure of what the oversight findings might be as to whether or not the program should be continued, changed, eliminated, or whatever the findings might be. The report of the findings of the oversight committee to the full membership would be essential to make it more effective, if we are ever going to be able to evaluate the merits of the effort.

Mr. MOFFETT. I couldn't agree more. I think part of what you want to do here is get these committees as excited about reporting their findings from this period as they are about fighting for turf, as you have seen many times at this table.

They come in and get excited about their turf question. If we can get them as excited about reporting back on what they found, and have that be a mark of excellence for the committee. That might take us 5 years, but that is well worth doing.

I was just going to mention our synthetic fuels investigation, where we really had a textbook case of oversight, if there is such a thing. We had our minority, the majority of our subcommittee, our full Government Operations Committee, Jim Baker at the White House, and Stockman, to some extent, really saying that, what went on in a certain period of time here on synthetic fuels, actually in the transition period, was not that good. It was a shakedown period to a certain extent. Now, you have Ed Noble, the new SFC chairman, coming in and reporting to the same subcommittee, that was so critical that we have made these 10 changes, and we think you will be happy with them, and it is really very good so far.

There was no amendments to the law. We never had to bother anybody on the House floor, take up time with that. We just went in, gathered the facts, made the recommendations. When Noble was nominated, he came to the office and met with me and the ranking minority member, with Mike Synar and others, and said, "OK. We take seriously these hearings that you have been doing, what do you suggest?"

That is the kind of thing that I think can be done.

We can't lose sight of the political—we are in a political business here—the positive political ramifications of this. If I am viewed as somebody who is not as close to business as I am to labor or community groups, this can become my period of the year for learning more about what is happening at this factory or that factory in terms of how OSHA impacts on their business. If one of you is just the opposite in terms of the perceptions of you, it is a good chance for you to get in and look at how Federal laws are affecting daycare centers.

We can really create a momentum here.

Mr. TAYLOR. I think we spend all too much time making new laws and writing regulations, and not enough time evaluating what we have done.

It would be very helpful and, as I said, I really believe that evaluation of legislation on the books and oversight is one of the most important functions that the Congress has.

I think the people would appreciate it.

I would hope that these oversight hearings wouldn't turn into a forum for sensationalism, I mean, that we really get down to the meat of the problems.

You mentioned something about the media would be there, but that is always one of the problems we face in this place. If somebody wants to do something sensational, and if the media is there, it becomes a good time to get off on a tangent, but I do commend you for what you are doing and support it.

Do you think with our present system of quorums on committees, that this would be a problem?

Mr. MOFFETT. Well, we have been kicking this around, even before you came in, and there is no guarantee here.

Until you have oversight entrenched really as part of the process of rewards, you are not going to have great attendance.

Mr. TAYLOR. Does each one of the legislative committees have an oversight subcommittee?

Mr. LONG. I think nearly every one.

Mr. MOFFETT. Not quite. I am not only saying that any proposal only relates to oversight subcommittees.

It is obvious that we have all oversight subcommittees on Government Operations; but, on Commerce, there is no question that Henry Waxman would like to do more oversight as would his minority members.

I know Ed Madigan would like to do more oversight, I am sure he would, and Norman Lent would like to.

They are not necessarily on oversight subcommittees, but we view the standing authorizing subcommittees as doing this.

Mr. TAYLOR. We just don't have the time.

If we give some time, certainly it is worth 21 days. I don't believe that those on the Committee on Public Works, which has an oversight subcommittee, did very much. They simply didn't have time. I was on other subcommittees, but I have always felt that oversight was very important and should be pursued, and I commend you.

Mr. MOFFETT. Thank you so much.

Mr. LONG. Mr. Hall.

Mr. **Hall**. One of the ideas that comes to my mind in hearing Toby talk about entrenching oversight is the idea of having a select or a standing committee on oversight.

It raises all kinds of questions in one's mind, do we want to create a committee, another committee within Congress?

Mr. **Moffett**. Government Operations is supposed to do that.

Mr. **Hall**. What you have is most of the major standing committees have an oversight subcommittee.

Mr. **Moffett**. True.

Mr. **Hall**. They are supposed to have oversight—I have never served on an oversight subcommittee—and I keep hearing that they just don't have the time really to get into it. If you really want to entrench oversight, there are a couple ways to go about it. This is just an idea. Take all the oversight subcommittees out of the standing committees and put them into one committee. The one committee would be a committee on oversight, and you would have a subcommittee on Defense, Foreign Affairs, Subcommittee on Government Operations, et cetera. You get into a turf battle here, a battle where subcommittee chairmen are already subcommittee chairmen.

Mr. **Moffett**. I am trying to avoid this turf question.

Mr. **Hall**. That is one way to do it.

Mr. **Moffett**. Remember when Jerry Patterson got into this thing and was chewed up in large measure by the turf question. There have been numerous—you folks know better than I do—numerous attempts at reorganization; proposals by Representatives Bolling and Burton are examples. I tried to stay away from that here, without identifying, to move forward without identifying who is going to do this.

I know from my own experience on Commerce, in addition to an oversight subcommittee, there are subcommittees that would like very much to do straight oversight if they had time, and we get back to your central point which is a key point here.

You have got to back off with the legislative load, give them time, go to 2 years or whatever.

Government Operations is a unique case, don't forget. Government Operations does entirely oversight. We do very little legislative.

There are three or four major bills that have gone through Government Operations the last several years.

By and large, it is identified as an oversight committee, but I think if we start from the premise that we are going to have an oversight time, things will start to fall in place, and maybe we will have some more definite ideas later about how we want to restructure if we do, but if you start trying to restructure beforehand, we will never do it.

Mr. **Hall**. It is just an idea. As I understand it, you have 10 or 11 oversight subcommittees in Congress now in the House of Representatives. If you want to get away from the turf battle, pluck them all out of those various committees and put them into one. Their main function would be oversight completely on every part of it and their duty would not be to write laws or talk about the budget. Their duty would be to have oversight all the time.

Mr. MOFFETT. One of the problems with that is that, at least, theoretically, it actually does work in some cases. You do have that connection between Members who serve on an oversight and on a standing legislative committee, so if they do have to make a legislative change down the road based on what they found in the oversight, they are on that committee.

Mr. LONG. I agree with that completely. To be able to conduct the oversight adequately, you really need some experience in the particular field. Otherwise they are going to give you talk, talk, talk, and that is all you are going to get.

Mr. MOFFETT. I think that is right. I don't think we could do what we do, and we don't do it perfectly, but we couldn't do what we do with EPA, DOE, synfuels, et cetera, if we were not, many of us, on the standing legislative committees. I think that is right, Mr. Chairman.

Mr. LONG. One other technical question with respect to your resolution itself.

The resolution permits the Speaker to make exception for floor consideration of measures that might come up for conference committees.

Would it be advisable to make this procedure apply to some committee considerations whereby the Speaker could, under certain circumstances, allow that committee to act in that regard?

Mr. MOFFETT. If you draw the waiver authority very narrowly, sure. I don't think you want to have it become as easy as meeting under the 5-minute rule or something.

Mr. LONG. Getting a unanimous consent request.

Mr. MOFFETT. That is really the end of the ball game right there if you make it too easy.

You have to have the leadership excited about this, really excited about it. You have to have both sides of the aisle.

Mr. LONG. Anything else?

Let me say, as the chairman of this subcommittee, I am seriously interested in it.

I have not pursued it with the leadership. I wanted to explore it at this level to some degree before I proceeded with it and before we acted in the subcommittee. We are going to bring some more people in and see if we can't get a broad expression of opinion before we do make a decision.

I think it is so important that I do not want us to attempt it unless it will be successful.

Mr. MOFFETT. It does not do any of us or me any good to have proposed something that becomes an instant flop.

We really have to take steps to see whether it works.

Mr. LONG. All of us join in complimenting you on your diligence in this matter, your particular approach to it, and your willingness to pursue it. There being no further questions, the committee stands adjourned.

[Whereupon the subcommittee adjourned at 10:50 a.m., subject to call of the Chair.]

CONGRESSIONAL OVERSIGHT OF FEDERAL PROGRAMS

FRIDAY, OCTOBER 16, 1981

House of Representatives,
Subcommittee on the Legislative Process,
Committee on Rules,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room H-313, the Capitol, Hon. Gillis W. Long (chairman of the subcommittee) presiding.

Present: Representatives Long, Derrick, Hall, and Rhodes.

Mr. Long. The meeting will come to order.

I know that you have been concerned for a long period of time with the problems relating to the difficulties that Members face in scheduling their legislative duties, Mr. Danielson.

Periodically, the Rules Committee has received your thoughts on the matter. I think all of us are disappointed at the progress that we have been able to make over the past few years. One of the things that has concerned you, if I recall your correspondence correctly, is that the chief obstacle is the increasing number of procedural votes that we have on the floor.

Certainly this affects how much oversight any committee can conduct as they try to operate under these constraints.

You are an expert, of course, on the usage of the legislative veto as a form of oversight, in your capacity as chairman of the Judiciary Committee on Administrative Law and Government Relations. We welcome hearing from you on the issue of oversight. Please proceed in your own manner. We will make your statement a part of the record.

STATEMENT OF HON. GEORGE E. DANIELSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Danielson. Thank you very much, Mr. Chairman. I am glad that you are making it a part of the record because this is my opening statement. However, you have a fine court reporter here, so I know that it will be verbatim.

Having worked this out, I know if you wish I could go back to the office now and dictate a statement which would be better than one I would have anticipated earlier. The dry run really brings you about.

First of all, I want to commend you for holding the hearings, because I am sort of an old maid about our country and our Congress, and I feel that we are bogging down in the legislative process, and something simply must be done, or we are going to fall so far behind in our effectiveness that it is going to jeopardize, in my opinion, the workings of our republic. I certainly do not want that to happen.

I know that in a private conversation with you Mr. Chairman, it was pointed out that everybody seems to know where some of the problems lie, but it tends to require the bloodying of heads in order to straighten out those problems. That was the experience of Rules Committee Chairman Richard Bolling a few years ago when he truly did come up with an excellent modernization suggestion for committee structure, but enough blood flowed so that it carried away all of that good work in the tide.

A similar experience was that of my colleagues, Jerry Patterson, a year or two ago. We know there is legislative turf that must be observed, and it is important that we observe it, so perhaps we have to approach this in a different way, and the suggestion of you, Mr. Chairman, is that maybe we ought to improve our oversight procedures. I fully agree.

Oversight is badly needed. The lack of sufficient oversight, in my opinion, gives rise to many of the suggested changes, legislative changes, which would not be necessary if there were adequate oversight, so that the executive and the independent agencies would be carrying out more precisely the mandate of the Congress.

Second, it is needed so that the Congress will be aware of situations where changes are needed and would make those changes in time to accommodate our society and our economy, so that we wouldn't have this outcry of too much regulation, too many laws, too much oppression, and so on. In other words, it would be helpful if the Congress could simply update legislation to fit existing circumstances.

I am pleased that you invited me to appear here, because the work of my subcommittee has been precisely in line with some of the suggestions mentioned in your cover letter dated September 24, and in the attachments to that cover letter; namely, H.R. 2, the Sunset Act, H.R. 58, the Sunset Review Act, section 1 of House Resolution 100, the committee improvement amendments, and House Resolution 218, providing for an experimental period reserved for oversight in next January.

I am going to touch base lightly on those as I go through this presentation.

No. 1, I think that an underlying reason for the crying need for more oversight, for the constant call for legislative veto, for sunset, for all of these so-called aids to the legislative process, is the fact that we do not have enough time. We can spend money that we do not have. We can increase our national debt to a trillion dollars. We can borrow money to where the interest on the national debt is approaching $100 billion. It is over $75 billion now. I am frightened to look at the paper to find out what it is each day, but it is an enormous sum.

You know we can take away the savings of old people by permitting inflation to eat into their reserves. We can do such ridiculous things as extend financial credits on farm subsidies, as we learned yesterday. Where do we get the money? We have the Treasury sell Treasury bills. We pay 18 or 19 percent interest on that. We turn it over at a lower rate of interest to the person who receives the benefit and who in turn reinvest it in Treasury bills on which we pay another 18 or 19 percent, and this endless chain keeps up. Why? Because we don't have the oversight

We enact laws but we don't see where they are going. We make appropriations but we don't watch too carefully how they are spent. We have Government loans and grants but we don't pay much attention about collecting back the money afterward, as a result of which we now have $24 billion of outstanding delinquent debts around the country.

All of these things result, from the fact that we do not have enough time. While we can borrow money and coin money—I suppose print it—we can print it, and we can mortgage our futures and that of future generations without end, we can't increase our available time by so much as 1 second a day.

There are 24 hours in 1 day, and no one has figured out how to increase that, and we do have a lot of receptions to attend, which cuts us back down, after you leave off the popcorn and the potato chips and that ball of soft cheese, we have about 8 hours a day, or maybe 9 hours a day, that we can use for productive work, and we do work hard, all of us, and thank God for our wonderful staffs. It is possible to get more than 8 or 9 hours' work out of an 8- or 9-hour day, but we are wasting time, and that is precisely one of the most important things we have got to watch, wasting time.

I have, for 4 or 5 years been keeping track of rollcalls, and in the hope that by just giving people credit for calling for rollcalls, I don't say blaming them but letting them have the honor of having called more rollcalls than anybody else, identifying them when and where and why, what was the rollcall, like ordering a second on a suspension, for example, we have reduced rollcalls by about 57.5 percent.

I am very pleased. No matter how carefully you time it, it takes about 20 minutes to conduct a rollcall. You have the startup time and the closeup time plus the 15 minutes, and "are there any Members in the Chamber who wish to cast their vote," and all that, 20 minutes consumed for the rollcall.

In 1 year, 1978, there were 942 rollcalls, which translates into 314 hours. That, in turn, translates into 39¼ days if we assume that the House is in session for an average of 8 hours a day—which is a false assumption. On the more realistic assumption that the House is in session for an average of 6 hours a day, it would translate into 59½ legislative days. Just think about that for 1 minute—we stood there on the floor, with our little plastic cards in those slots, for at least 39 days, or, more likely, 52 or more days; it's enough to curl your hair.

The first session of a Congress, following election, has fewer rollcalls than the session of the second year. That is because of time lost in organizing the new Congress. So we must use equivalent sessions if we are to have a valid comparison.

My most recent recapitulation for the 97th Congress was as a August 4, 1981, the 106th legislative day, and we then had 190 rollcalls. On the 106th legislative day of the 96th Congress, September 6, 1979, there had been 447 rollcalls.

Thus we reduced rollcalls by 57.49 percent from 1979 to 1981. Part of that is due to the publicity attached to the rollcall tabulation.

Now this next depends upon the good will of the subcommittee chairmen and the full committee chairmen and a little backing up from the membership. Let's get rid of some junk legislation, and we have lots of junk legislation. Take a look at the agenda for any week, almost any week. This week we are doing pretty well. We have appropriation bills up and they are important.

But we have such things—and committee time is consumed; you have to have a National Clay Pipe Week every once in a while and we have a day for this and a day for that and a day for the other thing all the way down the line. We went so far recently—as far as I am concerned it was an outrage, although there were only two votes against it, mine and Mr. Hyde of Illinois—which declared somebody an honorary American citizen.

That required printing of a bill, subcommittee hearings, committee hearings, debate on the floor, and it was such a gorgeous subject to talk about that everybody had to talk. They used the full time. As far as I am concerned nobody has a right to be an honorary American citizen. American citizenship is a God-given right that our Founding Fathers created for us. As far as I am concened, we violated it once in 1940-something, made Winston Churchill an American citizen. Well, that wasn't too bad. His mother was an American citizen.

Mr. RHODES. Lafayette was, too.

Mr. DANIELSON. No, he wasn't. He became a citizen of some States, I am sorry to tell you, Mr. Rhodes.

Mr. RHODES. That is the reason his portrait is on the floor of the House.

Mr. DANIELSON. We will argue about that later.

Mr. RHODES. I bet I win.

Mr. DANIELSON. The fact of the matter is I did a little research on that, Winston Churchill, and if I had been here I wouldn't have voted for it. As far as I am concerned, that is a little like selling your mother.

Mr. RHODES. You just don't like Englishmen.

Mr. DANIELSON. No. I love Americans. I am talking about junk legislation. If we have to do that, why don't we pass a resolution he was a great guy because he was a great guy. We have weeks. I have one in my committee. I think I had, I swear I had a letter from the gentleman from Arizona on one occasion advocating a Federal charter for some very nice club. You know there are at least 700,000 very nice clubs in the United States.

Mr. RHODES. Big voters.

Mr. DANIELSON. I will not identify them at this time, but as to Federal charters the fact of the matter is that we do not have a Federal corporation law. Somebody got the idea way back that it would be nice to make an organization a Federal chartered corporation. There is no Federal corporation law, so this has all the equivalence, you know, of a Kentucky colonelship that you hang up on the wall, or shaving paper in case you still use a straight edge. You know, you put the soap on something. That is exactly what it is good for.

Yet I get requests every year from this organization, that organization, that want to have a Federal charter. It takes time. I fight them down, but you know the political pressures get pretty heavy once in a while and a few escape, but it is still junk legislation.

I won't waste anymore time on that. Oh, we give medals too, to people who invent a plastic airplane to fly across the channel. That is another one. It is not just the medal that costs $35,000, $30,000 of which goes to the artist who carves it and $5 for the metal and so on, but the trouble is we are wasting time, and we shouldn't waste time nor should we waste money nor should we demean the work of the Congress.

We have some things to work on, a budget, a new tax plan, good appropriations, matters of improving the administration of justice, of improving education, and so on. Let's throw out this junk legislation and get down to the hard challenges that face us, and see if we can't meet our legislative responsibilities.

Mr. LONG. Are you keeping an index on what you consider to be junk legislation comparable to what you are doing with respect to——

Mr. DANIELSON. No; but I am willing.

Mr. LONG [continuing]. To rollcall votes?

Mr. DANIELSON. I am going to do it, sir. I accept the challenge.

Mr. LONG. I had better be careful or we will create a monster here.

Mr. DANIELSON. I will move on now from a thing that bugs me, but I have got it out of my system. I think I have made my point.

Mr. RHODES. We also do a study on subcommittees that should never have been created.

Mr. DANIELSON. That is a good one too, and special and ad hoc committees too. They are great.

Mr. RHODES. Yes.

Mr. DANIELSON. If I may move on, incidentally, at this moment, now that I am getting into things that count——

Mr. LONG. Before we leave that, I have one serious question that relates to saving time. Do you think that reconciliation is a valid way to save time in the authorization process?

Mr. DANIELSON. I think it is valuable in the manner of a gun behind the door. The knowledge—and particularly after this year when we really did it—the knowledge that this weapon is in our quiver, that we can use it, and may use it, will I think have an inhibiting effect on reckless authorizations and appropriations. The word "reckless" is a little too strong. Our colleagues are not reckless, but sometimes we aren't quite sure what to do, so we give the next multiple higher, and so on. We are not as stringent as we should be, and I think it helped to inhibit that.

I would like to see a better coordination between the Appropriations Committee, however, and the Budget Committee. I think there is a tremendous overlap in work. I don't quarrel with the essence of our Budget Act and the way it works, but I think we have created a good deal of overlap, and not only does it waste time and disrupt the legislative process, but it also impacts upon the cordiality of the relationship between the members of the respective committees. If we can do something to minimize that a little bit, to alleviate the pressures, I think we would be well ahead of the game there.

I want to move along to what I consider is another time-saving feature, and with the permission of the Chair, I will lodge with the Chair a few copies—can I hold one back for a minute—of a letter which I wrote to Chairman Bolling, with copies to all members of the committee, on July 20. I have updated it as of this morning correcting an error, but it is a minor error.

[The letter referred to by Mr. Danielson follows:]

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GEORGE E. DANIELSON
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House of Representatives
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Committees:
JUDICIARY
Chairman, Subcommittee on Administrative Law and Governmental Relations

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July 20, 1981 (October 16, 1981 version)

Honorable Richard Bolling
Chairman
Committee on Rules
H312 Capitol
Washington, D.C. 20515

Re: Amendments to Bills
Time Allocated for Debate

Dear Mr. Chairman:

This will follow up my previous conversation with you and several other Members of the Rules Committee on my suggestion that time for the debate of amendments to rules should be limited/allocated in most instances.

I suggest that the Rules Committee should seriously consider limiting (allocating, if you prefer) the amount of time for debate on individual amendments. As a simple illustration and starting point for discussion, I suggest that rules contain a provision that the time for debate in the Committee of the Whole House not exceed one hour for any individual amendment, together with amendments to that amendment.

In addition to specifying the amount of time which can be used on a given amendment, I urge that the Rules Committee also consider permitting the proponent of an amendment to control half of the time allocated to his amendment, with the manager of the bill being amended controlling the other half of the time. This would go a long way toward preventing needlessly protracted debate and toward controlling the epidemic of requests for "five additional minutes", etc.

I think all Members will agree that legislative time is one of our most precious resources, that it is not renewable, and that we waste too much of it. When the Department of Defense appropriation bill was debated last week, at least a day and a half was consumed in the debate on posse comitatus. Half of one day was consumed on one of the amendments offered

BEST COPY AVAILABLE

by the Government Operations Committee. I question that anything new was heard after the first hour of debate on either amendment.

A copy of this letter is going to each of the Members of the Rules Committee.

Very truly yours,

George E. Danielson
Member of Congress

GED:jen

cc: Honorable Claude Pepper
Honorable Gillis W. Long
Honorable Joe Moakley
Honorable Shirley Chisholm
Honorable Leo C. Zeferetti
Honorable Butler Derrick
Honorable Anthony C. Beilenson
Honorable Martin Frost
Honorable David E. Bonior
Honorable Tony Hall
Honorable James H. Quillen
Honorable Delbert L. Latta
Honorable Trent Lott
Honorable Gene Taylor
Honorable John J. Rhodes

Mr. DANIELSON. My point is this. On amendments, debate on amendments, I urge that the Rules Committee, either in a general rule or by incorporation within the individual rules which are issued to accompany any bill, provide a limit on the amount of time that can be spent on a given amendment. Rather than freeze this into a general rule, I think it would be best to leave it to the wisdom of the Rules Committee when they consider a rule, to limit the debate, for example, on the peanuts portion of the Agriculture bill, or the sugar portion, to let us have, say, 1 hour of debate and also to provide in the rule that the proponents of the rule—and yesterday's example that, of course, would have been Mr. Peyser and Mrs. Heckler—would have been given 30 minutes and the opponents 30 minutes and let them yield their time as they will, but they have 1 hour to debate it and then it is time for a vote.

I have seen some of these amendments which go on and on and on, and Members have eloquent thoughts to express, but that does not further the progress of the work of the Congress. If you need 1 hour, that is fine. If you think you might need 2 hours on a given rule, that is fine. That is why I say rather than put it into a fixed House rule, why not let the Rules Committee itself in a given case decide how much time should be allocated to this, that or the other amendment.

Mr. LONG. George, as you know, though, when you start opening that Pandora's box you really get into the matter of restrictions in general that here at the Rules Committee has caused us very serious problems: that is, whether or not amendments have to be printed in the Record and made specifically in order by the Rules Committee. Then you end up with the question of what to do in this matter on open rules, and the setting of the time limit by the Speaker, and the allocation of that time by, perhaps, the Chairman of the Committee, if the House be in Committee of the Whole at the time.

Mr. DANIELSON. That is correct, Mr. Chairman, but I would like to respond to that. As we mentioned at the onset, we all know what are some of the remedies for our problems, but we all also know that each of them entails a little bloodletting here and there, and I don't think we can avoid that. If we are going to discipline our procedures so that legislation will flow expeditiously but with due consideration, we have to tighten up. There is no other way we can do it, and the loss of a little blood probably won't hurt any of us.

I think that that is one reason why both parties have carefully selected men and women of strong will and independent frame of mind to sit on the Rules Committee, because, Mr. Chairman, you ladies and gentlemen on the Rules Committee not only have the prestige of being on what is probably the most honored committee in the House of Representatives, but you also have the burden that goes along with it, the burden of exercising some kind of logical discipline as to the flow of legislation, and I think that as a child who needs discipline, the House itself, will be glad to feel that there is a strong hand at the tiller, and if we are given fairness, evenhandedness with like treatment for everybody, we will go along with it.

You know, Mr. Chairman, I enjoy watching the debate. I even get reckless and enter into it once in a while. For a politician, there can hardly be a better life than the forum of the well of the House. I hear people go down to the well and they give their great speech, but they have so much more that they want to say. "I ask unanimous consent for 2 more minutes," and before that is up they want 5 more minutes. I have seen this. We have all seen this drag on until the original 5 minutes consumes 10, 12, 15, or even 20 minutes.

Now, if you had a rule that the amendment can have a maximum of, let's say, 2 hours, the proponent controls 1 hour, and the chairman or the opponent controls the other hour, the person managing the time is going to be very reluctant to yield more than 1 minute or 2 minutes extra, to keep it within its timeframe. I urge that the Rules Committee consider this, because this will expedite the flow of legislation, and it will save time, and time is the only thing we cannot create. Don't forget, we have spent $1 trillion that we didn't even have. We can do that, but we can't create 1 extra minute, and that comes home to roost right here, Mr. Chairman, in your committee.

Mr. **Rhodes**. George, the chairman is absolutely right, though. We could certainly limit the time for debate on amendments which we make in order.

Mr. **Danielson**. Correct.

Mr. **Rhodes**. Which would otherwise not be in order.

Mr. **Danielson**. That is right.

Mr. **Rhodes**. Because they come to the attention of the committee. But I think if we were to try to get every amendment which is in order submitted to the committee, and the committee evaluate them as to the amount of time, that we would really open a mare's nest that would really probably not be very productive.

Mr. **Danielson**. I think there is no problem at all, if I may, Mr. Rhodes. This would only apply, obviously, to the amendments which you do know about in advance, and which are inherently controversial. I mentioned the peanut amendment of yesterday only because it is so fresh in our minds, as is the sugar amendment. We know about them. In this letter of July 20 that I sent to you, I happened to point out, because I am on the Judiciary Committee, that on the Defense appropriation bill a day and a half was consumed on the posse comitatus amendment—a day and a half.

Now, I heard much of that debate, because I was involved. I swear that nothing new was said by anyone after the first hour, but a day and a half went down the tubes, and it is irretrievable. It is gone, and we will never get it back again.

Now, the easy part of the answer is you know about the controversial amendments, or you can be informed of them at least. Why not then have a general rule that on any other amendment, one on which you do not assign a specific amount of time, why don't we do like we do with suspensions, 40 minutes, 20 minutes on each side. That way the person who offers an amendment, he thinks of it at the last minute, he writes it on the back of his little reception card and turns it in. You know he hasn't even thought about it in advance, it didn't have the dignity of deep, profound analysis. Give him 40 minutes at maximum. A lot of them go that fast. It is the knotty amendments that take time.

Mr. RHODES. Don't you think if you give them 40 minutes they will take it?

Mr. DANIELSON. No, sir; I do not. If he hasn't thought of the amendment in advance, he hasn't got a speech worked out.

Mr. RHODES. That has never bothered a Member of Congress.

Mr. DANIELSON. May I say this—why not try it. And if you want to, you can give me the blame. I will take the heat. I couldn't care less. So pour it on and it won't bother me in the least bit.

A little mechanical thing. We are always pursuing improvements in our procedures. We are always pursuing ethical standards. The press frightens us, which is absolutely ridiculous. There is nothing on earth that is more ridiculous than fear of the press; those who sit up there in the press gallery as second-guessers. They have never been in the front line; they are like the guy in the grandstand who watches a football game. You know, they all know they could have done it better, although they have never done anything themselves except to second-guess.

Now, a few years ago an outcry was made by the press that Members give speeches that are in the Congressional Record but they don't really give those speeches. Isn't that awful. So we changed our rules to put bullets in front of speeches that aren't actually given. Do you remember the bullets? They are all over the record nowadays, but as a result a lot of Members go down to the floor and they read their speech into the record so there won't be bullets. Let's remove the bullets and then I think more Members will revise and extend and we won't lose all that time.

Can you think of anything more stultifying than having to listen to someone go into the well and read a speech or sit at the counsel table and hear him read a speech. If they can't give their speech from their soul, it shouldn't be given in the first place. Let them just hand it in. Remove the bullets and you are going to find more people revising and extending—I call it reviling and distending.

Mr. RHODES. George, you know that was a "reform."

Mr. DANIELSON. Right. I carried a lot of reform and I will take blame for it. A lot of things I have done I am not proud of, but now I have lived longer and I believe I am wiser.

Mr. RHODES. The voting system was a reform.

Mr. DANIELSON. That you cannot reverse, so why waste your time. But that voting system is a sin. People go to the floor and look up to see how Joe and Bill voted and so forth, and then they vote. It was a lot better when you came on the floor under the old system and then you had to find out what you were really voting on.

Mr. LONG. You had to chase those people down and find out how they voted.

Mr. DANIELSON. And you didn't know how the rollcall was coming out until it was over. The only improvement I can make on the electronic system is to turn it off until the roll is all locked up and then turn it on and see what happens. That would curl some hair around here.

Now let me move on because I really do have to go, and I've been imposing on your time. Mr. Chairman, you must not delay me longer. I want to introduce my very excellent counsel, Miss Janet Potts and Bill Shattuck, who, are the greatest counsel on the Hill, bar those others who are present.

You have in your letter, sir, come up with a couple of suggestions. I refer to these oversight and sunset bills.

Mr. LONG. I would like to get your views on those.

Mr. DANIELSON. I can go very fast on them because, really, that is the only part I worked on. You know you can give a long speech if you do not prepare it.

Mr. LONG. That is what worried me about what you all were talking about a minute ago. If you are not prepared, you are liable to really go on.

Mr. DANIELSON. On H.R. 2, the Sunset Act, I would like to point out that I believe that the constant clamor for sunset arises out of the fact that we know that our laws do not perpetually fit the times, and something should be done to change them. So what we try to do with sunset is, every 10 years, or every 5 years, cut off your head, which means that you just, therefore, do something before the head is cut off. Sunset has a purpose, but I don't think that it is going to work, because there is going to be too much sunset coming due all at once. It is simply going to be impossible.

Now, in my subcommittee we have worked for three Congresses, and we have now reported out a regulatory reform bill which I think is a masterpiece of legislation, and with your permission I will hand you five copies of the committee print, which is the bill now pending before the full Judiciary Committee.

[The committee print Mr. Danielson referred to follows:]

[COMMITTEE PRINT]

OCTOBER 6, 1981

Amendment in the Nature of a Substitute to H.R. 746

97TH CONGRESS
1ST SESSION

IN THE HOUSE OF REPRESENTATIVES

Mr. DANIELSON (for himself, Mr. MOORHEAD, Mr. SYNAR, Mr. EVANS of Georgia, Mr. GLICKMAN, Mr. MCCLORY, Mr. KINDNESS, Mr. NATCHER, Mr. HUGHES, Mr. KOGOVSEK, Mr. NELSON, Mr. MURPHY, Mr. BENNETT, Mr. GIBBONS, Mr. REUSS, Mr. WHITEHURST, Mr. MOAKLEY, Mr. HANSEN of Idaho, Mr. WHITTEN, Mr. SAM. B. HALL, Jr., Mr. PRITCHARD, Mr. GARCIA, Mr. BEVILL, Mr. PRICE, Mr. DE LA GARZA, Mr. BEDELL, Mr. ZABLOCKI, Mr. COELHO, Mr. STOKES, Mr. IRELAND, Mr. FISH, and Mr. DOUGHERTY) introduced the following bill; which was referred to the Committee on

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A BILL

To amend the Administrative Procedure Act to make regulations more cost-effective, to ensure review of rules, to improve regulatory planning and management, to enhance public participation in the regulatory process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Regulatory Procedure Act of 1981".

TABLE OF TITLES

TITLE I—THE ANALYSIS, MANAGEMENT, AND ORGANIZATION OF AGENCY FUNCTIONS

TITLE II—REORGANIZING AND IMPROVING AGENCY PROCEEDINGS

EFFECTIVE DATE

SEC. 2. Except as otherwise provided, this Act shall take effect on October 1, 1982, except that the provisions of section 622 of title 5, United States Code, as added by section 101(b) of this Act, and the provisions of section 553 of title 5, United States Code, as amended by section 201(a) of this Act, shall apply only to rules for which notice of proposed rulemaking is given after such effective date.

TITLE I—THE ANALYSIS, MANAGEMENT, AND ORGANIZATION OF AGENCY FUNCTIONS

SEC. 101. (a) Chapter 6 of title 5, United States Code, is amended—

(1) by inserting immediately after the chapter heading the following:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

(2) by inserting immediately before section 601 the following:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(3) by striking out "this chapter" each place it appears and inserting in lieu thereof "this subchapter".

(b) Such chapter 6 is further amended by inserting at the end of the chapter analysis the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"Sec.
"621. Definitions.
"622. Additional procedures for major rules.
"623. Judicial review.
"624. Office of Management and Budget.

"SUBCHAPTER III—ESTABLISHING AGENCY PRIORITIES AND SCHEDULES FOR COMPLETING PROCEEDINGS

"631. Regulatory agenda.
"632. Calendar of Federal Regulations.

"SUBCHAPTER IV—AGENCY REVIEW OF RULES

"641. Review of rules.".

(c) Such chapter 6 is further amended by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"§621. Definitions

"For purposes of this subchapter, subchapter III, and subchapter IV—

"(1) the term 'agency' means an agency as defined in section 551(1) of this title and does not include the General Accounting Office, the Library of Congress, or any other agency of the legislative branch of the Government;

"(2) the term 'rule' means a rule as defined in section 551(4) of this title that is subject to section 553 of this title but does not include—

"(A) a rule involving the internal revenue laws of the United States;

"(B) a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances; or

"(C) a rule that repeals, withdraws, or otherwise modifies a rule or group of related rules promulgated before the effective date of this subchapter so as to eliminate or reduce the compliance burdens of that rule or group of rules; and

"(3) the term 'major rule' means a rule or series of closely related rules that—

"(A) imposes direct or indirect compliance costs, which are likely to result in an annual impact on the economy of $100,000,000 or more;

"(B) will have a substantial impact on health, safety, or the environment; or

"(C) otherwise is designated a major rule by the agency proposing the rule, or by a designee of the President within the Executive Office of the President, due to its potential adverse impact upon costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or upon competition, employment, investment, productivity, or innovation.

"§ 622. Additional procedures for major rules

"(a) Before publishing notice of any proposed rule, each agency shall determine whether the rule is a major rule and shall include in that notice an explanation of that determination.

"(b) At the same time an agency publishes notice of a proposed major rule, the agency shall issue—

"(1) a succinct statement of the need for, and objectives of, the proposed rule;

"(2) a description of those reasonable alternatives to the proposed rule and its main elements that may accomplish the stated objectives of the rule in a manner consistent with the applicable statutes, including a description of the least costly method of meeting the regulatory objectives;

"(3) an assessment of the need for the establishment or application of requirements in the proposed rule in order to accommodate regional differences, including economic, environmental, demographic, and land-use differences;

"(4) an analysis of the projected benefits and adverse economic and other effects of the proposed rule and of each of the principal alternatives listed under paragraph (2), and an analysis of the effectiveness of the proposed rule and each such alternative in meeting the stated objectives of the proposed rule;

"(5) an explanation, where applicable, of the relative advantages and disadvantages of adopting performance standards rather than design standards in the proposed rule;

"(6) a description of the means of evaluation and verification used by the agency to determine the quality, reliability, and relevance of information and scientific or other conclusions substantially relied upon by the agency in resolving material issues of fact; and

"(7) if the proposed rule would regulate activities which, before the rule was proposed, were regulated only by State law, an explanation of the statutory authority for the agency to regulate such activities.

"(c) At the same time an agency publishes a final major rule, the agency shall issue—

"(1) a succinct statement of the need for, and the objectives of, the rule;

"(2) a description of the alternatives to the rule that were considered by the agency;

"(3) an assessment of the manner in which the requirements of the rule accommodate regional differences, including economic, environmental, demographic, and land-use differences;

"(4) an analysis of the projected benefits and adverse economic and other effects of the rule;

"(5) an explanation of how the benefits of the rule bear a reasonable relationship to the costs and other effects of the rule;

"(6)(A) an explanation of why the rule attains its objectives, in a manner consistent with applicable statutes, with less adverse economic effects than the other alternatives considered; or

"(B) if the alternative adopted in the rule is not the least costly alternative that substantially achieves the objectives of the relevant statute, a detailed statement justifying the alternative adopted and a detailed explanation of how the objectives of the relevant statute required the choice of the alternative adopted;

"(7) a summary of the significant issues raised by the comments submitted during the public comment period provided in section 553(c) of this title in response to the items described in paragraphs (1) through (7) of subsection (b), and a summary of the assessment by the agency of those comments;

"(8) a justification, where applicable, for the adoption of a design standard rather than a performance standard;

"(9) a description of the means of evaluation and verification used by the agency to determine the quality, reliability, and relevance of information and scientific or other conclusions substantially relied upon by the agency in resolving material issues of fact; and

"(10) if the rule regulates activities which, before the issuance of the rule, were regulated only by State law, an explanation of the statutory authority for the agency to regulate such activities.

"(d) Any person who submits comments to an agency in response to any material issued pursuant to subsection (b) shall include with such comments the information upon which the comments are based, or shall identify the source of such information.

"(e)(1) In order to avoid duplication or waste, an agency may, whenever appropriate, incorporate in any material issued pursuant to subsection (b) or (c), or in any part of a rulemaking record for purposes of judicial review, any information contained in any other impact statement or analysis required by law, and incorporate by reference in any material issued pursuant to either such subsection information contained in a notice of proposed rulemaking or a statement of basis and purpose of a rule.

"(2) Each agency shall include, in the notice of each proposed and final major rule, a statement of how the public may obtain copies of the material issued pursuant to subsections (b) and (c). An agency may charge a reasonable fee for the copying and mailing of such material. Such material shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is primarily of benefit to the general public.

"(3) Each agency shall send to the Director of the Office of Management and Budget a copy of all material issued pursuant to subsection (b) or (c).

"(f) An agency may delay completing any of the requirements of this section with respect to a rule if the agency finds that the rule is being adopted in response to an emergency that makes timely compliance with the provisions of this section impossible and if the agency, not later than the date of publication of the rule, publishes that finding in the Federal Register, with the reasons therefor. Unless the requirements of this section are met within 180 days after such date of publication, the rule shall cease to be effective. Such rule shall not be repromulgated until the additional procedures required by subsection (c) of this section have been completed by the agency.

"(g)(1) An agency shall, in the case of rulemaking to promulgate a major rule, provide an opportunity for oral presentation of views and information at informal public hearings.

"(2) The agency shall permit cross-examination of individuals who present testimony, documents, or studies at such hearings but only to the extent the agency determines that other procedures would be inadequate for resolution by the agency of significant issues of fact upon which the rule is based.

"(3) The agency may, in order to ensure orderly and expeditious proceedings, establish reasonable procedures to regulate the course of informal public hearings under this subsection, including the designation of representatives to make oral presentations or engage in cross-examination on behalf of several parties with a common interest in the rulemaking concerned. Transcripts shall be made of all such public hearings.

"(4) No court shall hold unlawful or set aside a rule because of a failure of the agency to follow a procedure required by this subsection unless—

"(A) an objection to the failure to follow the procedure was made to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present such a timely objection, and

"(B) the court finds that such failure was so serious and of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if the procedure omitted by the agency had been followed.

"(h) The requirements of this section do not alter the substantive or procedural standards applicable to agency action under any other provision of law.

"§ 623. Judicial review

"(a) The compliance or noncompliance by an agency with the provisions of this subchapter, subchapter III, or subchapter IV shall not be subject to judicial review except as provided in subsection (b) of this section and in section 622(g)(4).

"(b) When an action for judicial review of a rule is instituted, any material issued pursuant to section 622 with respect to such rule shall constitute part of the whole rulemaking record of agency action in connection with such review.

Such material shall, to the extent relevant, be considered by the court when determining the validity of the rule itself.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.

"§ 624. Office of Management and Budget

"(a) The Director of the Office of Management and Budget shall have the authority to establish procedures for compliance by Executive agencies (other than independent establishments) with this subchapter. Such procedures shall be adopted following public notice and comment, shall be consistent with the prompt completion of rulemaking proceedings, and shall not alter the substantive standards applicable to an agency by law. The Director shall have the authority to monitor and review the implementation of such procedures by such agencies. The Director shall report annually to the Congress on the compliance or non-compliance by such agencies with the requirements of this subchapter.

"(b) Agencies shall place in the rulemaking file required by section 553(f) of this title a copy of all written material submitted to the Director of the Office of Management and Budget and received from the Director pursuant to any procedural guidelines established pursuant to subsection (a).

"(c) Nothing in this subchapter limits the exercise by the President of authority and responsibility under the Constitution of the United States and other laws, nor does this subchapter limit the authority or responsibility of an agency under any other law.

"SUBCHAPTER III—ESTABLISHING AGENCY PRIORITIES AND SCHEDULES FOR COMPLETING PROCEDURES

"§ 631. Regulatory agenda

"(a) Each agency shall publish a regulatory agenda in the Federal Register in April and October of each year. Each such agenda shall contain a list of all rules that the agency expects to propose or promulgate in the succeeding 12 months.

"(b) With respect to each rule listed on a regulatory agenda, the agenda shall include a description of the rule; the objectives of and the legal basis for the rule; any dates established or anticipated by the agency for taking action, including dates for advance notices of proposed rulemaking, notices of proposed rulemaking, and final agency action; a statement of the sectors of the economy likely to be affected by the rule; and a statement of whether the agency estimates the rule to be a major rule. With respect to each rule estimated to be a major rule, the agenda shall include a statement of the best available estimate of the agency of the cost of the rule.

"(c) Each regulatory agenda shall include a list of rules scheduled to be reviewed in accordance with section 641 of this title during the succeeding 12 months and the status of proposed rules listed on previous agenda that have not been promulgated or have not been explicitly withdrawn from consideration by the agency.

"(d) Each regulatory agenda shall include the name, address, and telephone number of an agency official responsible for handling inquiries about each rule listed on the agenda.

"(e) Failure of an agency to include a rule in a regulatory agenda shall not preclude the agency from proposing or issuing that rule.

"§ 632. Calendar of Federal Regulations

"(a) The President shall publish in May and November of each year a Calendar of Federal Regulations based on the agency submissions made in accordance with this section and such other information as the President may require.

"(b) Each agency shall prepare for the President, at least semiannually, submissions for the Calendar of Federal Regulations. The submissions shall include at least all major rules that the agency is likely to propose or promulgate within the succeeding 12 months.

"(c) The President shall issue guidelines for each agency in preparing submissions for the Calendar.

"(d) For each edition of the Calendar, the agency shall provide a statement of the status of proposed rules listed in previous Calendar submissions.

"(e) Each Calendar submission shall include the name, address, and telephone number of an agency official responsible for handling inquiries about each rule listed in the submission.

"(f) Failure of an agency to include a rule in a Calendar submission shall not preclude the agency from proposing or issuing that rule.

"(g) The Director of the Office of Management and Budget shall review agency submissions for the Calendar to identify those proposed rules which may be conflicting or duplicative with respect to either existing rules or other proposed rules. Within 90 days after the publication of each Calendar, the Director shall publish in the Federal Register a list of those proposed rules which have been identified as being potentially conflicting or duplicative in nature. With respect to any proposed rules so identified, the Director shall encourage the agencies involved to reconcile or eliminate the conflict or duplication.

"SUBCHAPTER IV—AGENCY REVIEW OF RULES

"§641. Review of rules

"(a)(1) Not later than 6 months after the effective date of this section, each agency shall prepare and publish in the

Federal Register for comment a draft schedule for the review of each major rule in effect on the effective date of this section which is administered by that agency and such additional rules as may be selected by the President or by a designee of the President within the Executive Office of the President.

"(2) At least 90 days before publishing the draft schedule in the Federal Register, each agency shall make the draft schedule available to the Office of Management and Budget. Each draft schedule shall include a date set by the agency for completion of the review of each rule on the schedule. The agency shall set a date for each such rule in a manner to insure the simultaneous review of related rules and to achieve a reasonable distribution of reviews over the period of time covered by the schedule. Such period shall be not more than 10 years after the date on which the final schedule is published pursuant to paragraph (3).

"(3) Not later than 1 year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of rules referred to in paragraph (1). Each agency shall publish with the final review schedule the response of the agency to comments received concerning the draft schedule.

"(b) Any agency issuing a major rule shall include, with the publication in the Federal Register of the final major rule, a date for completion of the review of the major rule.

The agency shall set such date at not more than 10 years after the date of such publication.

"(c)(1) Each agency shall review rules in accordance with the dates scheduled for review of those rules pursuant to subsection (a) or (b) of this section and shall, in conducting such review, prepare an assessment of each such rule which includes a statement of—

"(A) any benefits being provided by the rule;

"(B) any adverse economic and other effects of the rule;

"(C) the cost and nature of any problems encountered by the agency in obtaining compliance with the rule;

"(D) whether the objectives of the rule may be met through an alternative with less adverse economic and other effects than the existing rule;

"(E) whether the rule should be revised to better achieve its objectives;

"(F) the extent to which the rule overlaps or duplicates other rules; and

"(G) whether the rule should be withdrawn, amended, or continued without change.

"(2) Each agency shall publish in the Federal Register a summary of each assessment made pursuant to paragraph (1) of this subsection. Each agency shall make the complete assessment available to the public and may charge a reasonable fee for the copying and mailing of the assessment. An agency may include a series of closely related rules in a single assessment. Such assessments shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is primarily of benefit to the general public.

"(3) An agency may comply with the requirements of this subsection by publishing a notice of proposed rulemaking concerning a rule under review in lieu of an assessment if the notice contains the information required by paragraph (1) of this subsection.

"(d) If, on the basis of any assessment made pursuant to subsection (c), an agency determines that a rule should be terminated or modified, the agency shall, in accordance with section 553 of this title, so terminate or modify the rule.

"(e)(1) Notwithstanding the provisions of subsection (a) of this section, any agency may request the Director of the Office of Management and Budget to establish a period longer than 10 years for the completion of the review of rules described in subsection (a)(1). The Director of the Office of Management and Budget may, upon such request, extend the period for agency review to a period of not more than 15 years.

"(2) An agency may, with the concurrence of the Director of the Office of Management and Budget, amend the schedule required by subsection (a) of this section if such amendment is published in the Federal Register.".

(b) The chapter heading of chapter 6 of title 5, United States Code, is amended to read as follows:

"6. **Planning and Management of Agency Functions** .... 601".

(c) Section 601(1) of title 5, United States Code, is amended by inserting after "title" the following: "and does not include the General Accounting Office, the Library of Congress, or any other agency of the legislative branch of the Government".

TITLE II—REORGANIZING AND IMPROVING AGENCY PROCEEDINGS

RULEMAKING PROCEDURES

SEC. 201. (a) Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rulemaking

"(a) This section does not apply to—

"(1) a military or foreign affairs function of the United States;

"(2) a matter relating to public property or contracts or to agency management, including rules of agency organization, procedure, practice, or personnel; or

"(3) any interpretative rule or general statement of policy other than an interpretative rule or general statement of policy that has general applicability and would have a substantial impact on the substantive rights or obligations of persons outside the agency.

"(b)(1) Notice of proposed rulemaking shall be published in the Federal Register, unless persons subject to the proposed rule are named and either personally served or otherwise have actual notice of the rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

"(A) a statement of the time during which public comments will be received concerning the proposed rule, and the time, place, and nature of any hearings to be held concerning the proposed rule;

"(B) a statement of the specific objectives to be attained by the proposed rule;

"(C) a statement of the specific statutory authority under which the rule is proposed;

"(D) either the terms or substance of the proposed rule or a description of the subjects and issues involved;

"(E) a statement that the agency seeks proposals from the public for alternative methods to accomplish the objectives of the proposed rule that are more effective or less burdensome than the methods used in the proposed rule; and

"(F) a statement of where the file of the rulemaking proceeding maintained pursuant to subsection (f) of this section may be inspected or copies of the file may be obtained.

"(2) Except when notice or hearing is required by statute, this section does not apply to a rule to the extent the agency for good cause finds that notice and public procedure with respect to the rule are impracticable, unnecessary, or contrary to the public interest and publishes, at the time of publication of the final rule, such finding and a brief statement of the reasons therefor.

"(c) An agency shall provide a public comment period of at least 60 days after the issuance of a notice of proposed rulemaking pursuant to subsection (b). During the public comment period any interested person may submit written data, views, or arguments concerning the proposed rule with or without an opportunity for oral presentations. After the consideration of the relevant matter presented, the agency shall publish any rule adopted with a concise general statement of the basis and purpose of the rule. The statement shall include a response to the significant issues raised by the comments concerning the proposed rule received by the agency during the public comment period. When rules are required by statute to be made on the record after an opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(d) Not less than 30 days before the effective date of a final rule, the agency issuing the rule shall publish in the Federal Register a notice of the issuance of the final rule, unless persons subject to the rule are named and either personally served or otherwise have actual notice of the rule in accordance with law. An agency may make a final rule effective in less than 30 days after publishing notice of that final rule in the case of a rule that grants or recognizes an exemption or relieves a restriction, or as otherwise provided by the agency for good cause found and published in that notice.

"(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

"(f)(1) Each agency shall maintain a file of each rulemaking proceeding conducted pursuant to this section, beginning no later than the date on which the agency issues the notice of proposed rulemaking for that proceeding pursuant to subsection (b). The file shall be made available to the public and shall include—

"(A) the notice of proposed rulemaking and any supplemental notice concerning the rulemaking;

"(B)(i) a copy of all information, studies, and documentary material upon which the agency substantially relied in formulating the proposed or final rule, or (ii) if the inclusion of any such copy is impracticable, a statement listing such information, studies, or documentary material and indicating where the information, studies, or documentary material is located;

"(C) a copy of all written comments on the proposed rule which were submitted pursuant to subsection (c); and

"(D) all material which the agency by statute or rule is required to make public in connection with the rulemaking or which the agency decides to make part of the record.

"(2) The file required by paragraph (1) of this subsection need not include any material that is exempt from public disclosure by statute.

"(g)(1) Each agency shall transmit to the appropriate committees in Congress each regulatory agenda, or relevant portion thereof, published by the agency pursuant to section 631 of this title.

"(2) On the date on which an agency forwards to the Federal Register for publication a proposed or final major rule, the agency shall transmit a copy of such rule to the

Senate and the House of Representatives and to the appropriate committees in Congress.

"(3) Notwithstanding any other provision of law, no final major rule may become effective until the expiration of a period of 30 days after the date on which the final rule is received by the appropriate committees in Congress. If, before the expiration of such 30-day period, an appropriate committee in Congress orders favorably reported a joint resolution disapproving the rule, at a meeting at which a majority of the committee is present, the agency promulgating the rule shall either—

"(A) delay the effective date of the rule until the earlier of—

"(i) the expiration of 60 days after the date on which the committee orders reported such resolution, or

"(ii) the rejection by either House of Congress of a joint resolution disapproving such rule; or

"(B) submit to the Congress an explanation of why the agency is not delaying the effective date of the rule.

The matter after the resolving clause in any joint resolution disapproving a rule under this subsection shall be as follows: 'That the Senate and the House of Representatives disapprove the rule entitled , transmitted to the Congress by on , 19 .', the blank spaces to be filled in with the appropriate title of the rule, agency, and date.

"(4) Upon the enactment of a joint resolution disapproving an agency rule, such rule shall not be effective.

"(5) For purposes of computing the 30-day and 60-day periods referred to in paragraph (3) of this subsection, days when the Congress is not in session because of an adjournment of more than 30 days are excluded in the computation.

"(6) Whenever a committee reports a joint resolution of disapproval pursuant to this subsection, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(7) The provisions of paragraph (3) of this subsection shall not apply to a major rule if—

"(A) the agency promulgating the rule determines that the rule is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public interest, or the contents of such rule must be kept confidential before the effective date of such rule; and

"(B) the agency submits to the appropriate committees in Congress a written notice of its determination under subparagraph (A);

except that any such rule shall be subject to a joint resolution disapproving that rule.

"(8) Congressional inaction on, or rejection of, any joint resolution disapproving a rule shall not be deemed an expression of approval of the rule involved. The compliance of any agency with the requirements of this subsection, including any determination by an agency under this subsection, shall not be subject to judicial review.

"(9) For purposes of this subsection—

"(A) the term 'appropriate committee in Congress' means, with respect to a major rule, any committee in the House of Representatives and any committee in the Senate which has legislative jurisdiction over the statute pursuant to which the agency involved may issue the rule; and

"(B) the term 'major rule' means 'major rule' as defined in section 621(3) of this title.

"(10) This subsection shall not apply to rules proposed or issued pursuant to a statute which expressly provides for congressional review or veto of such rules.".

(b) The provisions of section 553(g) of title 5, United States Code, as added by subsection (a) of this section, shall cease to be effective on January 1, 1987.

(c) The item relating to section 553 of title 5, United States Code, in the analysis of chapter 5 of such title is amended by striking out "Rule making" and inserting in lieu thereof "Rulemaking".

AGENCY SUBPOENA AUTHORITY

SEC. 202. Section 555(d) of title 5, United States Code, is amended to read as follows:

"(d)(1) In agency proceedings subject to section 554 of this title, the agency, if otherwise authorized by law, may require by subpoena any person to appear and testify or to appear and produce books, papers, documents, or tangible things, at a hearing or deposition. Any subpoena authorized by law shall be issued to a party on request and, when required by rules of procedure, on a statement or showing of general relevance and reasonable scope of the evidence sought. Each agency shall designate by rule the officers authorized to sign and issue subpoenas, and shall include in such designation the presiding employee in such agency proceedings.

"(2) An action for enforcement of a subpoena issued by an agency in connection with agency proceedings under section 554 of this title may be brought only if the agency includes with the subpoena a date by which the person served with the subpoena must comply with the subpoena and only if such action is brought within 30 days after such compliance date. If the person served with the subpoena requests, in writing, that the agency quash or modify the subpoena, the 30-day period is tolled while such request is pending.

"(3) In case of the failure of any person to obey a subpoena issued in connection with agency proceedings under section 554 of this title, the agency, acting through the Attorney General or through the attorneys of the agency as applicable statutes may permit, may, if the requirements of paragraph (2) of this subsection have been met, bring an action in the district court of the United States for any district in which such person is found, resides, or transacts business, to enforce the subpoena. In a proceeding for enforcement of a subpoena found to be in accordance with law, the court shall issue an order requiring compliance with such subpoena and any failure to obey such order of the court may be treated by such court as a contempt thereof.

"(4) Whenever the validity of an agency subpoena issued in connection with agency proceedings under section 554 of this title is directly in question in any proceeding before a district court, the district court shall issue a final ruling on such matter within 45 days after the judicial proceeding is commenced unless the court, upon the request of all parties to the judicial proceeding, agrees to extend the period for deciding the matter.".

JUDICIAL REVIEW

SEC. 203. Section 706 of title 5, United States Code, is amended to read as follows:

"§706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to section 554 of this title or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) without substantial support in the rulemaking file (required by section 553(f) of this title), viewed as a whole, for the asserted factual basis of a rule adopted in a proceeding subject to section 553 of this title; or

"(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In making determinations under paragraph (2)(C) of subsection (a) of this section, the court shall require that action by the agency is within the scope of agency jurisdiction or authority on the basis of the language of the statute and, in the event of ambiguity, other evidence of ascertainable legislative intent.".

APPEALS OF AGENCY ORDERS

SEC. 204. (a) Section 2112(a) of title 28, United States Code, is amended by striking out the last three sentences and inserting in lieu thereof the following: "If proceedings are instituted in two or more courts of appeals with respect to the same order, the court in which the agency, board, commission, or officer concerned is to file the record shall be determined as follows:

"(1) If within 10 days after issuance of the order the agency, board, commission, or officer receives written notices from the parties of proceedings that have been instituted in two or more courts of appeals, the agency, board, commission, or officer shall, immediately after the expiration of that 10-day period, so inform the Administrative Office of the United States Courts and shall identify each such court in which such proceedings are pending. On the twelfth day after the issuance of the order, or as soon thereafter as is practicable, the Administrative Office of the United States Courts shall designate one court, according to a system of random selection, from among those identified by the agency, board, commission, or officer, and the record shall be filed in the court so designated.

"(2) If within 10 days after issuance of the order the agency, board, commission, or officer has received written notice from a party of proceedings that have been instituted in only one court of appeals, the record shall be filed in that court notwithstanding the institution of any proceedings in any other court of which such written notice was not received by the agency within that 10-day period.

"(3) In all other cases, the record shall be filed in the court in which proceedings with respect to the order were first instituted.

All courts in which proceedings have been instituted with respect to the same order, other than the court in which the record is filed pursuant to this subsection, shall transfer those proceedings to the court in which the record is so filed. For the convenience of the parties in the interest of justice, the court in which the record is filed may thereafter transfer all the proceedings with respect to that order to any other court of appeals. Until the record concerning an order is filed in a court pursuant to this subsection, any court of appeals in which proceedings with respect to that order have been instituted within 10 days after the issuance of such order may, to the extent authorized by law, postpone the effective date of the order for not more than 15 days. Such action by the court may thereafter be modified, revoked, or extended by the court in which the record is filed or by any other court of appeals to which the proceedings are transferred.".

(b) Section 604(a) of title 28, United States Code, is amended by redesignating paragraph (18) as paragraph (19) and by inserting immediately after paragraph (17) the following new paragraph:

"(18) Where proceedings with respect to an order of any agency, board, commission, or officer have been instituted in two or more courts of appeals and the agency, board, commission, or officer, pursuant to section 2112(a)(1) of this title, has been notified of such proceedings within 10 days after issuance of the order, administer a system of random selection to determine the appropriate court in which the record is to be filed;".

ADMINISTRATIVE CONFERENCE

SEC. 205. Section 573(b)(6) of title 5, United States Code, is amended by striking out the last sentence.

TECHNICAL AMENDMENTS

SEC. 206. (a) Section 551(5) of title 5, United States Code, is amended by striking out "rule making" and inserting in lieu thereof "rulemaking".

(b) Section 556(d) of such title is amended in the last sentence by striking out "rule making" and inserting in lieu thereof "rulemaking".

(c) Section 557(b) of such title is amended in the last sentence by striking out "rule making" and inserting in lieu thereof "rulemaking".

SEVERABILITY

SEC. 207. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

Mr. **Danielson**. Many of the things covered in these sunset proposals here call for a review every 10 years, for example, of Government programs. Most Government programs are exercised not through a self-executing statute, but through regulations issued by the agency which administers that statute. If you will look at section 641 of the bill, it is back about halfway through it—can you tell me the page, Miss Potts?

Mr. **Rhodes**. Page 15. [See p. 167.]

Mr. **Danielson**. We call for agencies to review all major rules. Our Government issues about 7,500 rules a year. Only about 150 are major rules. All major rules must be reviewed no less often than each 10 years. For the rules that are now in existence, the agencies must set up a schedule so that within 10 years each and all of the major rules will be reviewed.

It actually meets what we are talking about in this sunset provision. You also talk about, in the sunset bills that I have before us, you talk about establishing, for instance, in title 5 of H.R. 2, that there be established an agenda to review, to consider regulatory agencies' policies.

In sections 631 and 632 of the bill that I have just handed to you, we have made provision for that, requiring all regulatory agencies, two times each year, to submit an agenda of all rules which they propose to promulgate within the succeeding 12 months, it is October and April for the agenda—it is November and May for a calendar, following the agenda the President is to put together a calendar which shows what is going to come up in the next 12 months.

My bill, H.R. 746, covers the very points you mentioned here. It will help identify and eliminate duplication. It will help identify and eliminate conflicts. It will also provide adequate notice to affected segments of the economy and the society that a given rule is under consideration. Now, look out for it. Have your voice heard if you wish to do so.

You point out in section 1 of H.R. 100 that each standing committee can formally adopt and submit oversight agenda for the Congress to the Committee on Government Operations. That sounds good to me. I really have no objection to that. My only concern is whether or not we are going to be able to complete the oversight after they have the agenda, the reason being, again, that we don't have enough time to do all of the other things that we are doing. I am not sure but what it would be too big an order, though I am not adverse to the idea, and I will come back to that in one moment.

Also in H.R. 2, in title 2, we ask GAO to put together an inventory of programs. I doubt that that, will be of any value. I don't know how much material you get from GAO, but I get small folders and thick folders and catalogs and things the size of a telephone book every once in awhile, and I can't keep up with it. It's just beyond me. Now, this would provide us with a catalog of programs, but who is going to read the catalog?

Mr. **Long**. One of the difficulties, though, George, is nobody really knows all of the programs that are in effect at the present time. It seems to me that if we are ever going to be able to get any control of them at all, the first thing we have got to know is what we have.

Mr. DANIELSON. Sir, I am for it and I will vote for it. My only point is that I question whether it will do much good, but I do think it is a useful effort to reach something that might do some good, and I would support it.

Now, a last point. House Resolution 218, the Speaker shall designate 21 consecutive days, and so forth. I think that is a good idea because at the beginning of the session we really spin our wheels a lot anyway, and it would give us something useful to do.

Now, I think it would become most useful at the beginning of a new Congress, that first January and February. We have a structural problem here in the House to take care of. During the first 2 months we don't have our committees fully constituted, as a result I don't know just how it would be done, but it would be a blessing if at the beginning of a Congress the Members who are going to be on these committees could start some oversight hearings and fill that first 6 weeks or 2 months not only with some useful work, but in acquainting themselves with the programs that are in existence, and what is being done about them; in other words, getting ready to legislate.

I think that is an excellent idea, and if you can possibly find some way to incorporate that into our structure I think it is a great idea.

Mr. LONG. As you know, what Representative Moffett has suggested is a one-time trial method to see if this would expedite handling oversight. As you know, it would cut down on procedural votes on the floor. The House basically would not be in session during that period.

Mr. DANIELSON. Right.

Mr. LONG. Except for emergency situations, as you say, we are not doing much anyhow then.

Mr. DANIELSON. That is right.

Mr. LONG. And while the educational aspect of it for new members would be very valuable, we thought it much better to have the first one of them during the second session of a Congress, so that we don't get bogged down in committee assignment——

Mr. DANIELSON. Yes.

Mr. LONG [continuing]. Politics and all of this that has gone on.

Mr. DANIELSON. That is entirely true, but I think the concept is very good. It would give an opportunity to utilize time that is otherwise wasted or at least not used fully.

Mr. LONG. I know your time is rushed and we have taken too much of it already. Mr. Rhodes.

Mr. RHODES. I just want to make one comment or ask one question, George. What I think you have in mind is that at the beginning of each Congress you immediately reconstitute all of the committees of the last Congress with the Members who had served on that committee in the preceding Congress.

Mr. DANIELSON. That is correct.

Mr. RHODES. And the changes which have to be made as a result of the Republican conference and the Democratic caucus actions would be made at a later time.

Mr. DANIELSON. That is a route you could follow here, and it would not do violence to our system.

Mr. **Rhodes.** I don't think it would either. I think it is a good idea.

Mr. **Danielson.** It would be highly educational, and let's face it, by mid-January even new Members have a pretty good idea of what committee they are going to be on. At least they know the one they are interested in.

Mr. **Rhodes.** Yes.

Mr. **Danielson.** And there is nothing to prevent them from sitting in on the hearings and participating. We are pretty flexible. Thank you very much.

Mr. **Long.** Thank you.

Mr. **Danielson.** I think you have got a good plan here, and if I can help I will.

Mr. **Long.** Would it be acceptable if we submit your statements for the record and then let each of you gentlemen summarize in about 5 minutes what you would like to say? We can delay our questioning until both of you have finished your summaries, then open it up for panel discussion. Is that agreeable with the committee and with you two gentlemen?

Then it is so ordered. Why don't we proceed in that way. Mr. Gephardt, you go ahead.

STATEMENT OF HON. RICHARD A. GEPHARDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. **Gephardt.** Thank you very much.

I thank you all for taking the time to do this. I think it is extremely important, and as a tag on to what George was saying, I signed that letter with him, and I firmly believe that we could stand some innovation and experimentation in the area of trying to cut down on the amount of time spent on debating amendments.

I do think that this idea about assigning a time to amendments that you know about, and then assigning an arbitrary time to amendments that appear later probably is a good way to start. It may not work, but I think it may be worth a try. I certainly share his enthusiasm for trying to save more time.

My comments today will go very quickly over a lot of old ground. I think all of you are old hands at talking about and looking at sunset and oversight proposals, and I really appreciate the amount of effort that this subcommittee has given to it. I know that you have all thought about it a lot. Many of you had proposals of your own. I know that I have had. Norm and I and others have had many, many conversations with the chairman of the subcommittee and Butler Derrick about sunset and oversight and so on. I don't want to bore you with going back over all of that.

Let me start by saying that I continue to believe that we need a better proceess for considering the mainline legislation we have to process here every year, and I continue to believe that we need a way to force more orderly comprehensive oversight than we have had in the past. If there is any doubt about the need for that, it should be resolved in favor of it, because of what we have gone through this year.

I think the need to stick with a tough budget process means that both the authorizing and appropriating committees have got to do a better job of developing proposals, of understanding what is happening in their jurisdictions, and of coming up with ways to meet budgetary targets. The reconciliation bill was thought by many to be unsatisfactory. I think it is a necessary part of enforcing the budget process, but it will fall apart because of people's frustration with what is happening, if the committees have not done the work that needs to be done.

I simply believe having an oversight process gives them the ability to get that done, and having the time to do that is another part of making that all happen.

I think the Moffett resolution is well taken. I think it is a good first start at focusing our need to undertake oversight. If we can actually see that the 3- or 4-week period in January is actually used by the committees, and Members take the time to come to Washington or wherever they are going to do this, that will be a good first step. I heartily endorse that.

I continue to believe we need a permanent oversight bill. I believe H.R. 2 is still the way to do it, although I know there is debate about different parts of it. I think it has to be enforceable, I think it has to be orderly, and I think it has to be comprehensive, and I guess more important than anything, I think we need to get something passed and go on and do it.

Let me wind up by saying that I think that in anything we do in terms of ordering oversight we have got to think through very carefully again where our budget process has taken us, because the budget process is intertwined so obviously with this whole discussion.

Congressman Obey and I wrote a set of supplementary remarks to the First Budget Resolution Committee report, which suggested some changes that might be considered in the budget process as a result of where we have come in the last 2 or 3 years. Primarily what that suggestion was, in its simplest terms— and it wasn't completely thought through—it was a suggestion of how we might go—was that we collapse the two budget resolutions into one, that we consider the budget resolution at a time just prior to the beginning of the fiscal year, that we use the May 15 period for the usual committee reporting and the preparation of a tentative budget proposal. We give people targets, and the period between about May 15 and, say, September 1 be spent in the committees, the Appropriations Committee and the authorization committees coming up with specific legislation with regard both to entitlements and the budget outlays.

That would be included in the legislation called the budget resolution, and the budget resolution would in fact be not just an exercise in press releases about what we believe the budget should be. It would be a real exercise where you are not only setting your budget, but you are taking all of the actions in one piece of legislation that are necessary to make that budget a reality.

That is a radical change from where we are, but it would stop this business of having this bifurcated or trifurcated procedure where we are setting a budget in two budget resolutions, and then taking hundreds of other actions and authorizations in appropriations, which are often contradictory to what we have said we want to do in the budget.

In effect, what we are doing today is passing two budget resolutions, which may or may not be consistent with what we do in the real decisionmaking, and then, because we rarely ever hit the targets we set in the budget, we wind up confirming what has happened by our other decisionmaking with a third budget resolution and supplemental appropriations. And so the budget process is not as effective as it, I think, must be.

To sum up then, I think we need to change or consider changing the budget process to a more real process. I think, in doing that, we ought to fit with that an oversight legislative procedure that would fit very comfortably with a new kind of budget procedure. I would urge your subcommittee to continue working in this area. I think it is the most important thing that has to be addressed in the Congress and in the House, and I think we all look to you for leadership in trying to figure out the answers to some very knotty problems.

[Mr. Gephardt's prepared statement follows:]

PREPARED STATEMENT OF HON. RICHARD A. GEPHARDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. Chairman, I welcome this opportunity to appear before your subcommittee once again to discuss the need for improved congressional oversight.

First, I want to compliment you, Mr. Chairman, for your continued efforts to address this issue and to come up with a realistic proposal for improving congressional oversight activities. For many years, you and the other members of your subcommittee, along with a number of other Members of Congress, have been calling for a system that will ensure that program evaluation is carried out in an orderly, comprehensive and constructive fashion.

Ever since I entered the Congress almost 5 years ago, there has been a growing demand, not only by public officials but the American people as well, for trimming the government—reducing Federal spending, eliminating waste and duplication in programs, and improving the efficiency and effectiveness of activities undertaken by the Federal Government. Despite the growing perception that we have had far more Government programs than we need and that many of them have been wasteful, inefficient, and ineffective, we have never been able to develop a procedure whereby the Congress would adequately examine all these programs to demonstrate to what extent the charges are true. Perhaps our failure to enact and carry out such an oversight process was responsible, as much as anything, for the major changes brought about by last year's election.

Be that as it may, certainly, our failure to conduct orderly and comprehensive oversight left us ill-equipped to evaluate properly the major budget cutting proposals that confronted the Congress this year. The reconciliation process that was used to implement most of these proposals was the subject of some important criticisms. I think the charge that reconciliation forced the Congress to act hastily without giving proper attention to the implications of our actions is understandable and justified. I would suggest, however, that if an oversight process had been in place and operating effectively, we would have been better prepared to judge the President's budget proposals. We would have developed a much better set of data on the need and effectiveness of expenditures slated to be cut and could have made decisions knowledgebly.

Right now, we cannot be sure the decisions we made in the Reconciliation Act this year were the right ones. Have we created undue hardship for many Americans or have we merely begun to rid the Government of unnecessary expenditures? Have we truly reduced Government outlays or just cut one program in order to trigger more spending in others?

We are looking ahead to more proposals for budget cuts in fiscal years 1983 and 1984. It is important that we act now to make sure we do not again make decisions in the dark, as we did this year.

Our colleague from Connecticut, Rep. Toby Moffett, has offered a constructive interim proposal to that end. He has suggested that three weeks be set aside at the beginning of the next session so that House committees can spend time exclusively on oversight and program evaluation. This step should help prepare the Congress to consider the next round of budget cuts that I think we can all be fully confident the administration will submit. I would hope, if such an oversight period is designated, that it will in fact be used for meaningful program evaluation.

I firmly believe, however, that we continue to need a long-term measure to make sure oversight becomes a permanent activity of the Congress. As we try to pare back the Government to a lean and efficient mechanism for addressing the needs of our country, we ought to have an on-going system that provides for continued evaluation of the effectiveness of Government programs. At the same time, as we look farther down the road, we will need to examine not just whether the Government has gone too far, interfering with our economic prosperity, but also whether Federal programs reach far enough—whether perhaps we need new programs to address problems that are going unsolved. Congressional oversight activities would help us define those needs, help us develop programs to meet them efficiently, and help us monitor the new programs to prevent repeating our past mistakes.

During this series of hearings, the subcommittee has been looking at a number of proposals to establish such oversight procedures. They all have considerable merit with a variety of constructive features. At the risk of repeating past testimony I have presented to the subcommittee, I want to summarize briefly those features that I consider to be essential to an effective oversight process.

First, it must be enforceable. In the past, too many words have been devoted to oversight with too little action. If program review procedures are not going to be implemented, there is no point in spending more time to devise and establish them.

Second, oversight requirements must be orderly. Without a carefully planned procedure, instead of overseeing programs we may end up overlooking some of them. At the same time, an orderly process is important to make sure the fragmentary committee system of the Congress does not undermine our ability to identify duplication or to compare the effectiveness of similar programs.

Finally, the process must be comprehensive. If all programs are not included in oversight requirements, we cannot achieve our goal of bringing the government under control and improving its efficiency. At the same time, we might fail to identify those programs that are most effective in meeting the needs of the American people.

To be truly comprehensive, the process has to cover tax expenditures as well as direct spending. As the move to cut the budget has gained steam this year, the pressure to replace grants with tax benefits has multiplied. The need to include tax expenditures in oversight requirements becomes greater than ever as the potential for new tax expenditures becomes increasingly real.

There are many ways these basic ingredients can be developed. What I consider to be most important is that we do it—that we establish a congressional oversight procedure. The present political climate has created the ideal environment for action. The demand for controlling Government and making it more efficient is greater than ever. I think the actions of the past year demonstrate a more favorable orientation in the Congress which has moved away from enacting new programs before taking stock of the laws currently on the books.

I commend the subcommittee for seizing this opportunity by holding these hearings. I hope they lead to a consensus and, ultimately, congressional action on a process to achieve orderly and comprehensive oversight.

Mr. LONG. Thank you, Mr. Gephardt.
Mr. Mineta.

STATEMENT OF HON. NORMAN Y. MINETA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MINETA. Thank you very much, Mr. Chairman. I have a cold and I hope that my voice will hold out. I really do appreciate this opportunity for all of us to appear before your subcommittee to testify on this issue.

I think the arguments for sunset have become much more compelling because of the recent past when the House adopted the Reconciliation Act for fiscal year 1982 and made some very far-reaching decisions impacting about 250 programs without any kind of legislative congressional hearings.

There is one thing I think that legislative hearings provide, and that is the opportunity for all sides of an issue to express their feelings. And when you have programs being changed in sometimes closed conference committees, and actual legislation being rewritten in those sessions, it really creates a tremendous impact on the outside world, the real world. Yet, we did that this year. The reversal of the minimum social security benefit is an example of what we could have avoided with legislative oversight procedures.

It seems to me that had sunset been in place, the blatant abuse of the legislative process would not have occurred earlier this year. Sunset, as has already been pointed out, would provide a vehicle for committees to weed out wasteful and duplicative programs, and to also protect proven successful programs.

There is general agreement of the fact that we do have to get the Federal budget under control, and we know what the results of that not taking place will be in terms of inflation and interest rates. It seems to me that what we have here is a process which would give us the ability to get a handle on Federal spending. Unless we take some of these tough steps—and as George—my colleague from California, Mr. Danielson has indicated, sunset does step on some toes, there is no question about it—I don't think that we will ever get to the point of getting control of the Federal budget, and more importantly, the goal of trying to get to a balanced budget.

The Budget Act of 1974 did give Congress a set of procedures which provide order, guidance, and information in assessing the relative merits of spending and revenue measures in conjunction with the overall needs of the economy. The process that the Budget Act has established is basically a good logical procedure, but an important element is missing: it lacks the mechanism to conduct a comprehensive review of spending programs to determine their effectiveness.

I think this is where the Sunset Act will help Congress perform those kinds of oversight tasks very effectively. The purpose of sunset is to establish a systematic and orderly procedure and would increase the options of Congress to allocate Federal resources and establish Federal policies to meet changing national needs. The Congress is the only national forum for determining national public policy issues. It can't be done in city halls or State legislatures. It is done here in the Congress. It seems to me that we have to have an orderly process to do this.

Many of the other points have been covered, Mr. Chairman, so I think probably the better part of the time could be spent in response to inquiries that you may have.

[Mr. Mineta's prepared statement follows:]

PREPARED STATEMENT OF HON. NORMAN Y. MINETA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman and members of the subcommittee, I want to thank you for holding these hearings and for giving me the opportunity to testify on sunset. As you well know, sunset bills were first introduced in the 94th Congress and since then have undergone extensive review in both the House and the Senate. I am extremely pleased that the Subcommittee on the Legislative Process is taking up this and other proposals to improve congressional oversight. I hope that this set of hearings will result in a comprehensive evaluation of sunset measures and lead to enactment of sunset legislation during this session of Congress.

The arguments for sunset have become more compelling in the past few months. On June 26, the House adopted the Omnibus Reconciliation Act for fiscal year 1982 which made far-reaching changes in more than 250 existing programs without subjecting them to congressional hearings.

Had sunset legislation been implemented, this blatant abuse of the legislative process might have been avoided. Sunset would have provided a vehicle for committees to weed out wasteful and duplicative programs and to protect proven successful programs.

There is general agreement among most Members of Congress that the Federal budget must be brought under control. Large Federal deficits are fueling inflation and keeping interest rates at record high levels. However, my experience as a member of the Budget Committee, has taught me that balancing the Federal budget is a very difficult task.

Despite the fact that the Constitution gives Congress the power to raise and spend Government funds, there is an obvious discrepancy between that constitutional authority and the actual ability of Congress to control spending. A single statistic sums up this discrepancy: for fiscal year 1982, more than $540 billion of Federal expenditures, 77 percent of total budget outlays, is deemed uncontrollable without a change in law. If Congress had taken no action with respect to this fiscal year—if we had adopted no budget resolution, if we had written no new legislation, if we had made no additional appropriations—virtually all of the $540 billion would be spent anyway.

Unless we begin to take steps to confront this problem of uncontrolled spending, it will be practically impossible to balance the budget. It is also very evident that for the next several years there will be no funds available for new Federal initiatives unless programs that are no longer needed can be identified and eliminated. If we want to spend money on a good program, we will have to throw out a bad program.

The Budget and Impoundment Act of 1974 gave Congress a set of procedures which provided order, guidance and information in assessing the relative merits of spending and revenue measures in conjunction with the overall needs of the economy. The process that the Budget Act has established is basically a good, logical procedure, but an important element is missing. Congress, at present, lacks the mechanism to conduct a comprehensive review of spending programs to determine their effectiveness.

Aggressive, systematic program evaluation is a crucial element that needs to be implemented in the budget process. The Budget Committee cannot undertake the critical scrutiny of spending programs which has become essential. Oversight and review is the prerogative and responsibility of the various Authorization and Appropriation Committees.

I believe sunset can help Congress perform these oversight tasks effectively. The principal purpose of sunset is to establish a systematic and orderly procedure requiring Congress to reconsider its past program enactments. Sunset would increase the options of Congress to allocate Federal resources and establish Federal policies to meet changing national needs.

Sunset requires that Congress take positive actions to reauthorize the programs which it wishes to continue. However, the mere establishment of a procedure for the evaluation of Government programs would not achieve what I believe to be the principal purpose of sunset. If this Congress wants to enact effective sunset legislation, enforcement provisions must be included. The automatic termination feature of H.R. 2 would provide the necessary enforcement mechanism.

Critics of the automatic termination feature of sunset often claim that termination assumes that a program is invalid, that it must be revalidated to continue, rather than reviewed and reauthorized. Something like assuming a man is guilty before his trial.

This is simply not the case. The termination provision in H.R. 2 simply requires that programs be reauthorized and reviewed. It makes no greater assumption about the validity of a program than Congress does regularly when it authorizes a program for a definite period of time.

Other criticisms of automatic termination are that it will open old battles which have already been fought and won; that it could mean inadvertent termination; and that it could bring uncertainty to State and local governments who receive Federal assistance.

I must agree that sunset would allow debate on old policy issues. But I believe that that is a good thing. Policies of the past are not necessarily reflective of the best solutions to today's problems. However, it should be kept in mind that the termination provision does not, by itself, terminate any underlying programmatic law. It affects only the authorization of expenditure for programs.

It also may be true that automatic termination could mean inadvertent termination but I see that as highly unlikely. I can't think of a program which is working reasonably well that would not have a constituency screaming and yelling if it appeared Congess were about to terminate it because of inadvertence.

Finally, the argument that sunset will somehow cause instability at the State and local level is wrong. Most assistance programs for State and local governments already have short-term reauthorizations so that there would be no more uncertainty under sunset that there is now every time a program comes up for reauthorization.

Mr. Chairman and members of the subcommittee, I believe sunset is a viable and workable product that should be put into use. We cannot afford to postpone sunset any longer. I hope that you will encourage rapid enactment of sunset legislation so that implementation can move forward.

[Additional material to Mr. Mineta's statement follows:]

NORMAN Y. MINETA
MEMBER OF CONGRESS
13TH DISTRICT, CALIFORNIA

COMMITTEES:
PUBLIC WORKS AND TRANSPORTATION
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December 11, 1981

The Honorable Gillis W. Long
Chairman
Subcommittee on Legislative Process
U.S. House of Representatives
Washington, D.C. 20515

Gillis:
Dear Mr. Chairman:

I was pleased to participate in your hearings on congressional oversight.

On October 28 and 29 the Budget Committee Task Force on Enforcement, Credit and Multiyear Budgeting, which I chair, held hearings on federal credit activity. The record of the hearings shows that there is growing concern with the increase in federal credit activity and its impact on interest rates and the credit markets. I believe that Congress should take serious steps to review federal credit programs.

Enclosed is the statement I made at the opening of the hearings on federal credit. The statement emphasizes the need for congressional oversight of federal credit activity.

I would appreciate having this statement included in the record of the hearings on congressional oversight with the remarks I made on October 16 before your subcommittee.

I commend your continued efforts in improving the legislative process.

Sincerely yours,

NORMAN Y. MINETA
Member of Congress

NYM/pko/w

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Opening Statement by Congressman Norman Y. Mineta, Chairman, Before the Hearings of the Task Force on Enforcement, Credit and Multiyear Budgeting—October 28, 1981

It's a pleasure to welcome you to these hearings of the Task Force on Enforcement, Credit and Multiyear Budgeting. The focus of the hearings will be the effects of Federal credit activity on the credit markets and the need for congressional oversight of Federal credit programs.

During fiscal year 1981, the total volume of new loans and loan guarantees extended by the Federal Government is estimated to total $147 billion, a 23-percent increase over 1980. These figures are not adequately reflected in the budget of the Federal Government. Direct loan disbursements are offset by repayments. Consequently, the impact of new direct loans are understated. Federal guarantees are reflected in the Federal budget only when defaults occur, forcing the Federal Government to make guarantee payments. The practical result is that the economic and budgetary consequences of Federal credit programs are often ignored by Congress when it formulates its annual budget plans.

The impact of Federal credit programs on capital markets and the economy is enormous. They can shift capital from one sector to another, and they can raise interest rates for those not eligible for federal assistance.

Although loan and loan guarantees may at times be the best method for providing Federal assistance, Congress does not exercise the needed comprehensive review of credit activity.

The Reagan administration has chosen to use the credit budget as a tool for implementing budgetary control by making large reductions in loan commitments and direct loan obligations. One of the main features of President Reagan's September 24 budget reduction package is a $21 billion decrease in new loan guarantee commitments for fiscal year 1982. The administration plans to achieve these reductions primarily through administrative actions. Under current law, it appears that the administration can indeed implement these reductions without congressional approval. However, we would hope that the administration would consult with Congress before taking administrative actions.

Congress needs a set of procedures for reviewing Federal credit activities. Mr. Bethune and I have introduced a bill, the Federal Lending Oversight and Control Act, that would provide Congress with these procedures. The Federal Lending Oversight and Control Act would make the credit budget a formal, required part of the congressional budget process. Lending programs would be subject to the same annual budgetary scrutiny that is currently practiced for direct spending programs.

Congress needs a process or a set of procedures to determine for itself whether the social benefits for a given credit program are worth the costs of any economic inefficiency that might be created by such a program. Congress has to be able to make its own decisions regarding how much Federal credit assistance should be extended, and equally important, Congress must determine which sectors of the economy are most deserving and most in need of this assistance.

Beginning with the fiscal year 1981 budget, Congress took important first steps in this direction. It set targets for credit in the concurrent budget resolutions and set annual limits for may credit programs in appropriation bills. The credit targets in the second budget resolutions, however, are not binding as are direct spending ceilings. They will not be binding unless the Congressional Budget and Impoundment Control Act of 1974 is amended to include the credit budget. The Federal Lending Oversight and Control Act would do just that; it would finally make the credit budget a required part of the budget process.

I am hopeful that Congress will act quickly to adopt the Federal Lending Oversight and Control Act so that we can implement the provisions of the bill in time for the fiscal year 1983 budget cycle.

Mr. Long. Thank you very much, Mr. Mineta. I also thank Mr. Gephardt for a very stimulating summary of this problem.

Mr. Derrick has been very active in this, as you know, both from the standpoint of sunset and also from the standpoint of the Budget Committee. Mr. Derrick.

Mr. Derrick. I don't have any questions at the moment.

Mr. Long. Mr. Rhodes.

Mr. Rhodes. Having been on the committee that came up with the congressional budget process, I want to thank you both and congratulate you for your insight into the way it is operated. The facts are that we never really intended the first budget resolution to be used for the purpose that we used it in this Congress.

It was done that way because there was an emergency situation, and one which we felt had to be handled rapidly, and I think you will probably agree with me that if we had tried to do all the things that were done in that reconciliation bill piece by piece and through each committee, that it would have taken 5 years, at least, to do it. So this was, I hope, a one-time thing. I said when the rule was before this committee for adoption that I hoped this was the last time we ever did anything like that, and I do.

The first budget resolution is supposed to be a study in macroeconomics to decide what impingements on the economy the Federal Government should make in the next fiscal year, and also to decide, roughly, how the amounts to be appropriated, new obligational authority as well as the outlays, should be divided amongst the various areas of the Government, and then the idea was that the Appropriations Committee would go ahead and appropriate, and do its job, and then the second budget resolution was to look at what the Appropriations Committee had done, and from that to come up with a reconciliation bill either saying all right, so we are going to have a deficit, and that is fine, or we are going to have a balance, and here is what you have to do, and also the legislative committees, because entitlements are sometimes involved, what the others have to do, and if the Congress adopts that, that is the majority of the Congress telling the various groups involved, "Hey, we want you to do this," and that, I think, is a very legitimate and a very proper function of the majority, both parties, because it does cut across party lines, to instruct this to be done.

We have made lots of mistakes, but one of the chief mistakes we made was not in providing that the appropriation bills would not proceed to final passage until all were ready for final passage, because if we don't do that, your reconciliation process means absolutely nothing. All you are doing really is reconciling the macroeconomic picture at the expense of the appropriations bills which haven't become law, and you just can't do that.

So one of the first things we have got to do, if we are going to make this thing make sense, is to provide that no appropriation bill goes into effect until they all go into effect, and then that second budget resolution can do what it was designed to do, which is to reconcile the intent of the majority of Congress with the various component parts of the fiscal picture.

Mr. **Mineta**. Mr. Rhodes, if I might, you have pointed out a big distinction, I think reconciliation was there to reconcile the appropriations bills to the budget resolution. What we did this year was to reconcile authorization law to the budget resolution, and I don't think it was really ever intended to be used in that way. That is how we got into so many basic changes in law. Members of the various legislative committees today still don't know what impact the Omnibus Reconciliation Act will have on some of the programs within their jurisdiction.

Mr. **Rhodes**. I agree with that. That is the reason I say I hope we never do it again, but nevertheless, because we did impinge on the authority of legislative committees, but it was an emergency situation, and I think that usually you would use the reconciliation bill for just what you said, to reconcile the totals with the totals of the budget resolution. But I submit that I would not want to give up the authority which was given in the Budget and Impoundment Act, to use the Budget Committee as an instrument of bringing a recalcitrant group within the Congress to task to make them correspond to the wishes of the majority of the Congress.

Now, you will remember that one committee actually refused to obey the Budget Committee for a whole week. In fact, they did exactly the opposite of what the Budget Committee told them to do, until I imagine that the leadership told them, "Hey, you better get right or this is going to be the subject of a motion to recommit which will succeed." So that is a very important power that ought to be preserved.

Mr. GEPHARDT. I guess I disagree with Norm. I see the reconciliation or the budget process as being able to affect appropriations and entitlements and ongoing programs. I just feel that the way we have practiced the budget process in the past is that we have slipped all of it under the rug through the use of a supplemental appropriation and third budget resolutions, and what we have got to do is figure out how to make the process real at that second resolution, however we figure out how to do it.

Mr. LONG. Are you convinced that, with the time constraints we have, that is feasible, unless you go back to something along the lines of what you and Dave Obey were talking about? Particularly if you give consideration to something like the time structure we have proposed in H.R. 2, and adhere to it insofar as oversight or sunset is concerned.

Mr. GEPHARDT. I think you have got to make it one proposition. I think having two efforts going on makes it impossible to deal with it in the amount of time we have. I think you have got to have one budget resolution. I think you have got to figure out a way for committees to arrive at options that they can look at as they come into that budget resolution.

They have to have done their oversight or their workup before you get to that point, so that when you make the macrodecision, then the microdecisions can fall in place so that the overall decision can be reached.

It seems that we have got, as a Congress, to worry first about the economy and the effect of all of our revenue and spending decisions on that economy. I include Ways and Means in that too. The whole tax thing has to be melded into it.

Mr. LONG. I arrived at the same conclusion. I came at it from the standpoint of looking at H.R. 2, and all of the legislation on sunset. I became convinced that even with the changes we made from the original sunset proposals, it would be impossible for that system to work within the time constraints of the Budget Act. The Budget Act itself could not operate within the time constraints. And if you further imposed those of H.R. 2 on it, the whole system would bog down even more than it is. This would be the case even if we adopted some of George's suggestions with respect to saving time. Mr. Hall.

Mr. HALL. It seems to me if we are talking about time constraints, and we really want to make the budget process more effective and more efficient—we are talking about oversight—I would like to know what you two gentlemen think about biennial budgets, in other words, going to the budget process the first year, and the second year possibly having a supplemental bill, oversight, and cleanup legislation. It seems to me that this would solve some of the problems that we have with respect to our time, evaluating what we have done, and not being under pressure every year to get out appropriation bills plus budget bills plus meeting the schedules.

Mr. GEPHARDT. I would like us to do that. I guess my worry about it in reality is that we, at least over the last 4 or 5 years, have been in about a 3-month horizon on where the economy is going, and as the problem of the day appears, we want to jerk the budget and policy around to meet that problem. Today interest rates are the problem. That is what we are all focusing on. That is what we are hearing about. That is what we want fiscal policy to address.

A few months ago it was inflation. A few months or years before that it was unemployment, and we continually are trying to address the problem of today. We probably shouldn't. We probably ought to run a tight fiscal policy and let monetary policy try to make the adjustments, because it may be, as bulky as it is, easier to pull and haul around than fiscal policy is. But that sure isn't where we are now. I don't know that you can get this place to put up with it.

Mr. HALL. It seems to me that there is no consistency——

Mr. GEPHARDT. You are right.

Mr. HALL [continuing]. From year to year, what the departments can plan on.

Mr. GEPHARDT. I agree with you.

Mr. MINETA. I chair the Task Force on Enforcement, Credit and Multiyear Budgeting, and I think we need that kind of a track on which at least we can say this is the direction we are going. Right now we are like a yo-yo; we are like a roller coaster, adjusting to whatever the present-day problems are. But I think in the budget process, and in the budget resolution, we do need to look at those outyears.

The question is, do we have the Members voting on the specific figures as they relate to those various functions, in that second and third year outlay. Those figures are there right now, but we are not committed to them by vote, so to speak. They serve as a general yardstick as to where we will be in those outyears, and that is based only on the current services.

So there is a guideline out there on multiyear budgeting, but it is not one that is enforceable. However, I think it is something that is necessary. In the private sector or even in the local government you have, let's say, a 3-year operating budget and a 5-year capital budget, and in fact it has been suggested that we should be under a consolidated budget, breaking it out into two parts, a capital budget and an operating budget.

Mr. LONG. Long-range planning has been a bad term on the American political scene for so many years, ever since the McCarthy days, I guess, equating it with some sort of Communist system. We have never, in my opinion, been able to overcome that.

Mr. MINETA. I think that is why ours is 2 years instead of a 5-year policy.

Mr. **Long**. That's right. I was in Norway once looking at long-range planning. Of course, it is a small country and not completely applicable in any comparison, but they have done a very effective job of long-range planning without imposing upon the individual rights of human beings. I was talking to the Finance Minister.

"Congressman," he said, "do you know how Norway started its long-term planning program?" I said, "No." He laughed. He said, "The United States required it in order for us to participate under the Marshall Plan."

May I run down a number of questions with respect to the Moffett proposal that I would like to get for the record, because we need to build that.

House Resolution 218, which is the Moffett proposal, as you know, would create an experimental 21-day oversight period at the beginning of the next session of the Congress, a one-time-only sort of a proposition so we could look at it and see how it worked.

The question we are faced with is whether or not we really want to try that experimental period.

Do you think it would be productive?

Mr. **Gephardt**. I absolutely do. I don't know that we do much in that 21-day period anyway that is of great substance on the floor. If through the passage of the resolution we could raise the visibility of everyone in and out of the Congress, that this is a period when committees are going to meet and going to do oversight and are going to act, then I think it certainly is worth doing that and would be a benefit over not doing anything and not having anything happen on the floor or in committee.

Mr. **Long**. Norm?

Mr. **Mineta**. I have had the opportunity of chairing two legislative subcommittees within Public Works and Transportation, as well as chairing the Oversight and Review Subcommittee.

The Oversight and Review Committee, as you are well aware, has no legislative responsibility. It can do very good oversight work.

For every day of hearings, we probably have to have about 3 to 4 weeks of good investigative staff work.

And so that means that you have to know very clearly what your objectives are before you even start off. And, frankly, when I was chairing that Oversight Subcommittee, we laid out a program as to what we wanted to get into such as: the Clean Water Act, some phases of aviation policy, and the highway program.

We had some broad outlines. Then all of a sudden, an American Airlines DC-10 exploded and went down in Chicago.

All of a sudden, our focus went from those things that we had on the program to an extensive and exhaustive investigation as to why that engine fell off that DC-10.

We pulled off all of our staff resources from everything else. And we just concentrated on that.

From the time of the accident, people asked when are you going to start your oversight hearings on that?

Frankly, it took us about 11 weeks with the National Transportation Safety Board, the FAA, and DOT, not that we were getting in anyone's way, because their task was a little different from ours as a legislative oversight committee. Nevertheless, it took us about 11 to 12 weeks before we got to the point of saying, yes, we can have some very serious hearings.

The other thing, frankly, is you would want to make sure that those hearings are of a substantive nature without grandstanding because they may impact an airline, or a manufacturer, or you have potential lawsuits that these hearings will also impact. So you have to be very, very careful.

Oversight is not something that you can jump into and say, yes, let's look into it.

Mr. LONG. I agree.

Mr. MINETA. Because there is so much of this nitty-gritty that has to be done, it can't be done here in Washington, D.C. You have to hold those hearings in the field, talking to the people who work with the programs on a day-to-day ground-level basis.

And I think that we can utilize that period, that 21-day period very effectively as long as it is one in which those objectives are clearly laid out.

The other problem I just alluded to was the linkage between a specific oversight committee with the legislative committee. It is like the NTSB coming up with recommendations and gives them to the FRA or to the FAA or whoever, then no one follows up on them and they just sit on their hands.

I think the same is true of the oversight committee. The oversight committee comes up with a lot of recommendations. Then all of a sudden, we are in someone else's jurisdictional turf, and the subcommittee chairman says, well, who is he to tell our legislative committee as to how we ought to be fashioning the reauthorization of the whatever.

And that becomes a very real problem for us. We have a number of recommendations that have been made from the time the oversight committee was first created in Public Works and Transportation at the time of the highway scandals back in 1952. And a lot of those recommendations, frankly, have fallen on deaf ears over that 30-year period.

On the other hand, if the authorizing committee, the legislative committee is doing their oversight, naturally the linkage becomes more direct.

Mr. LONG. Do you think Members would participate in this 21-day program, or would they use it as an opportunity to get back to their district, particularly in an election year?

Mr. MINETA. Not only that. Given the fact that you have fiscal constraints and you are trying to make the dollar go farther, you get "that bigger bang for the bucks," oversight seems the only way you can do that. If you are going to create dollars out of existing dollars, you have to do it through oversight.

Mr. LONG. So far as I am personally concerned, I am not particularly happy with this.

I don't think it is comprehensive enough. I don't think it is structured enough. At least it is a step in the direction of trying to clear the House schedules sufficiently so that Members would have some time to direct their attention to this program.

That is the reason we are trying it as an experimental program on a one-time basis to see if it works.

I think there would be serious implications if it did not work.

Mr. **Gephardt**. I agree, but I don't think we should worry about whether members will come or not. I think the ones that want to do it will do it, and the ones that want to do something else will do something else.

I don't think we should always dictate the schedule by what even the majority of the House wants to do in a particular period of time.

Oversight is important. It ought to be done. Members who are going to do it are going to do it. We ought to give them time to do it.

Mr. **Rhodes**. The main thing is the effect they have on the agency really. Maybe two members working who are knowledgeable would have as good an effect as 10.

Mr. **Gephardt**. That's right.

Mr. **Long**. Gentlemen, thank you very kindly. We appreciate your contribution.

Mr. **Mineta**. Thank you, Mr. Chairman, we appreciate it.

Mr. **Long**. Mr. Bevill and Mr. Alexander, both of your statements will be made a part of the record.

I think it might save everybody concerned time if you gentlemen would try to summarize in about 5 minutes or so what your statement says.

STATEMENT OF HON. TOM BEVILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. **Bevill**. Thank you, Mr. Chairman. I want to commend the subcommittee for looking into the subject of how we might improve our legislative process.

I have three recommendations along that line. One of the major problems that has caused us on the Appropriations Committee a great deal of difficulty, is that we do not have the benefit of an authorization bill being enacted. We haven't had an authorization bill on energy in 5 years, so we have to come before this committee and request a waiver. Of course, this committee has always been most cooperative in providing us with a rule so that we could go on and meet our schedule.

So, with the help of the Rules Committee we have always met our schedule with the appropriations bill. But without the benefit of authorizing legislation, it makes our work much more difficult.

Our staff works with the staffs of the authorizing committees to get the best estimate of what their thinking is to get as much benefit from their thinking as possible.

That is the way we have to do it. By changing the rules that would require the authorizing bills be enacted by a certain date in my opinion would be a tremendous help to the Appropriations Committee in carrying out its responsibilities.

We don't have any deadline on authorization bills in our rules, as far as passage, or being enacted. We don't have any rules requiring them to be enacted by any deadline. So, my recommendation is that the rule be extended or changed to require that the authorization bills be enacted by May 15, or whatever date the House wishes or the Rules Committee wishes.

All we say is that it should be out of the committee.

But I do think a change such as this would encourage the legislative committees to make a stronger effort to get those bills enacted.

Mr. RHODES. Doesn't this point up the need for biennial authorizations or at least authorizations further down the line?

Mr. BEVILL. Yes. Now the Budget Control Act encourages that, you know. I believe it is section 607 of the Budget Act that encourages, in other words, multiple-year authorizations.

Mr. RHODES. We have legislative committee chairmen and members who complain bitterly because we give rules-waiving points of order.

Mr. LONG. That's right.

Mr. RHODES. We have no choice, really, except to hold up the appropriations process.

Mr. BEVILL. Right.

Mr. RHODES. Which we are not willing to do.

Mr. BEVILL. Well, if you waited, really, those agencies would have to close down because they wouldn't have any money to operate on.

Mr. LONG. That's right.

Mr. RHODES. It just seems to me that if the budget system which we have is going to work, and it has to, it will, and it has to, we need to go to at least biennial authorizations in many, many programs.

Mr. BEVILL. Yes; I would agree with you.

My second recommendation has to do with the absence of provision for budgetary control or "scoring" with respect to the funding requirements in individual bills.

Last year the Congress passed a bill on a very fine program on fusion energy.

The bill authorizing some $20 billion over the next 20 years with hardly any opposition.

This puts us in the position of being the old tight-fisted folks on appropriations. We have been appropriating about $350 million a year for fusion because that is as much as we could do and stay within the budget level we have to work with.

We appreciate the fact that the fusion program is a very important one and we are supporting it. But we can't appropriate $1 billion a year. What I am saying is the rules provide no scoring on authorizing bills.

I just feel it would be helpful if we could have some reasonableness in the amount of money that is authorized.

Mr. LONG. Do you think that could be done by rules, or is that just going to have to depend upon the good judgment of the authorizing committee?

Mr. BEVILL. I think they could do the same thing that the Appropriation Committee does. We take all the accounts under our jurisdiction and in our report each year, we show what the best estimates the congressional budget committee can give as to what the amounts will be in the out years.

Mr. RHODES. Well, Tom, the old man, I guess I have been here longer than anybody in the room, when I first came to Congress, it was expected that the Appropriations Committee would not appropriate the amounts that were called for in the authorization.

That the authorizing committee would authorize a program, and sometimes it didn't even have a cap on it, just relying on the appropriations process to appropriate what is proper.

And I liked that. I personally would rather see the Appropriations Committee as the entity to decide what can properly be spent in the next fiscal year, or the following 2 fiscal years.

With our budget process now, I think that it would work even better if we were to do that. I know that there is heat——

Mr. **Bevill**. The change I am recommending would not interfere with that. We would still have to make that decision, John.

Mr. **Rhodes**. I think you should, right.

Mr. **Bevill**. But I do think about this $20 billion for fusion that was authorized last year. If we, if the Members of Congress, had all been aware of our limitations, they would have probably amended it and cut it down to some workable level.

I do not mean to say we would have recommended the full amount authorized, but I do think we would have had a better understanding of the limitation we have to live with here in the Congress and make the proper adjustments necessary.

Mr. **Long**. That's pretty popular these days.

Mr. **Rhodes**. The thing that ruined the system was this organization which formed a few years ago, mainly in the education and welfare areas, for full funding. If there was a dollar cap in the authorization, that became not a cap, but a floor.

They used to lobby the committee, and everybody else. For a long time, they were very successful in getting full funding.

Well, full funding was really a misnomer, because those authorizing committees weren't capable, they didn't have the information knowing what could properly be spent in a given year.

Only the Appropriations Committee has that.

Mr. **Bevill**. Well, yes. I would go along with that. I mean, I would not want us to be put in the position of that being the minimum, no.

Mr. **Rhodes**. No.

Mr. **Bevill**. But the cap. That's right.

My third recommendation has to do with the reconciliation process. On that, I don't know what the Rules Committee can do, but I hope that something can be done which I think Congress intended, and that is to fine tune our budget.

Not to go out and abolish programs, such as the minimum social security program, and then come back and reenact it and put ourselves in this kind of position.

It appears to me, being on the sideline, that we made a big mistake in applying the reconciliation to the first budget resolution.

That was never intended, and that was how we got away from our own procedures in my judgment, and I hope we will not do that again. We should stick to the Budget Control Act as much as possible, and use reconciliation as was intended.

[Mr. Bevill's prepared statement follows:]

PREPARED STATEMENT OF HON. TOM BEVILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. Chairman and members of the committee, I welcome the opportunity to appear before you today to discuss the legislative oversight process and reconciliation and more broadly, the congressional budget process. I have some very real concerns about the direction we seem to be going in overall congressional budget procedures and the implications those procedures have regarding the future viability of the congressional committee system.

I will address myself to three concerns in the way the Congress deals with the budget and its oversight responsibilities. My remarks are in the contest of my experience as Chairman of the Energy and Water Development Subcommittee of the Appropriations Committee. My concerns relate to:

1. The lateness of, or absence of, annual authorizing legislation for continuing programs funded in the Energy and Water Development Appropriation bill.
2. The absence of provision for budgetary control or "scoring" with respect to the funding requirements in individual legislative bills.
3. The reconciliation process.

The Budget Act requires that authorizing legislative committees report bills and resolutions authorizing new budget authority not later than May 15. However, there is no requirement with respect to the timing for congressional consideration and enactment of these bills. Our experience is that while the authorizing legislative committees generally have met the May 15 requirement, the authorization bills themselves are enacted too late to be of any real value in the budget process. For example, the fiscal year 1978 authorization for Department of Energy civilian programs was enacted in February 1978, 5 months after the fiscal year began; no authorizing bills were enacted for fiscal years 1979, 1980, and 1981. The fiscal year 1980 authorization for the Nuclear Regulatory Commission was enacted in June 1980, 9 months into the fiscal year. No NRC authorization was enacted for fiscal year 1981. While my subcommittee and its staff have worked closely with the cognizant legislative committees, the absence of authorizing legislation creates the following difficulties:

The need to seek a waiver of House Rule XXI to permit timely action on our appropriation bill.

Uncertainty with respect to the final resolution of legislative differences between House and Senate bills.

Extended floor debate and consideration of issues during the appropriations process which should have been resolved in the legislative bills.

My second concern relates to the absence of provision for budgetary control or scoring of funding provisions in individual legislative bills which create out-year budget pressures. Over the past several years Congress has mandated numerous energy development and demonstration programs with projected funding well beyond the then current levels. While many of these programs would appear reasonable on an individual basis, in the aggregate such mandated funding levels could well exceed the resources that could reasonably be expected to be available to the committee for their execution. It would appear that some provision should be made for scoring and keeping track of funding levels in individual legislative bills so that the budgetary impact could be taken into account during congressional consideration of the bill.

Reconciliation, as it was originally conceived, has a purpose in the overall budget process. Reconciliation was intended to be applied only to the second concurrent resolution, and was supposed to be applied in only a limited sense to make minor adjustments to authorization bills, entitlement programs and appropriations bills. Reconciliation was never intended to be applied to the first budget resolution nor was it intended as a tool to implement major social or economic policies nor to provide for the wholesale abolition of governmental programs. Reconciliation, as it was conceived, can serve the useful and necessary function of bringing into agreement the many and diverse activities of the Federal Government in order to give the Congress an opportunity to better control both expenditures and revenues. That is, after all, the purpose of the Budget Control Act of 1974—to give the Congress the tools to examine fiscal policy questions and overall Federal revenues and expenditures in a comprehensive fashion. Reconciliation in its proper sequence is one of the tools available to assist that process.

Mr. Chairman, in concluding I would note that the orderly procedures of the House have served us well for many years and should continue to serve us in the current circumstances. Regular, timely authorizations consistent with the year-ahead provisions in section 607 of the Budget Act; consideration and scoring the budgetary impact of legislative changes; and minor adjustments through reconciliation in its proper sequence should permit more evenhanded and expeditious performance of our work.

My recommendations for your consideration can be summarized as follows:

1. The Budget Control Act requirement that authorization bills be reported out by May 15 of each year should be changed or House rules should require that authori-

zation bills be enacted by May 15. This would encourage multiyear authorizations which is the objective of Section 607 of the Budget Act.

2. Authorization bills should be "scored" in a manner similar to that required of the appropriation bills so that the Congress has a picture before considering authorization bills of the total fiscal impact of those bills.

3. Reconciliation should be used only as it was intended to be used—at the time of the second concurrent resolution and only to make minor adjustments as required.

I would point out that the Appropriations Committee has followed the regular procedures of the House in the conduct of its business this year and it has afforded the Congress the opportunity to work its will on the real questions of funding priorities.

Mr. LONG. Mr. Derrick.

Mr. DERRICK. I stepped out for just a moment. Have you discussed the Moffett proposal?

Mr. LONG. No, I have not. You might.

Mr. DERRICK. Tom, are you familiar with the Moffett proposal that we take about 3 weeks off, probably in January, and devote that to oversight?

Mr. BEVILL. I think it has a lot of merit, although I really haven't given it a lot of thought. Of course in appropriations process, when agencies come in to justify their request for funding, we do go into their request in great detail.

We do this over a period of months, so in our particular case, I don't know that it would improve over our present system as far as the Appropriations Committee is concerned.

Mr. LONG. If the gentleman would yield, an exemption is made for the Appropriations Committee because it was everybody's feeling it would really not work very well with respect to appropriations.

Mr. BEVILL. Well, I think it has a lot of merit, to answer your question, yes, sir. [Laughter.]

Mr. LONG. It gained considerably in merit on that information. Mr. Beilenson.

Mr. BEILENSON. I have no questions, thank you, Mr. Chairman. I agree with Mr. Bevill's testimony.

Mr. LONG. If you had a few minutes and could bear with us, we would like for you to stay and maybe we could have a little discussion.

Mr. BEVILL. I would stay as long as this committee asked me to stay.

Mr. LONG. Thank you, sir.

Mr. Alexander.

STATEMENT OF HON. BILL ALEXANDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. ALEXANDER. Thank you, Mr. Chairman.

Congratulations on your initiative. I support the scope and range of your ideas and welcome the opportunity to participate with you.

Since I have been here for seven terms, I have had the privilege of serving with Agriculture 6 years and an investigative committee, Government Operations, for 4 years and, for the last 7 years, as a member of the Appropriations Committee.

I have had that experience, and I am sure there are others who make it not unique. After you have been here for a while, you start thinking about the institution, the process, how well it works compared to other experiences in constitutional and representative democracy, and so on.

It occurs to me that the one act of which we have been most guilty is the abdication of much of the investigative responsibility with which we are charged by the Constitution.

We do a pretty good job with appropriations, but a mediocre job with legislative initiatives.

This committee, through the chairman, Dick Bolling, has commented several times about the quality of legislation that has come out of the House. I think the committee is well-advised in making those comments.

Some of it is very good. Some of it is, as we say in Arkansas, pretty sorry. We can remedy those things if we wish to.

The problem is we all know we have to be elected in the same way. So Congress has become balkanized in the last couple of decades as many of the functions of the State legislatures have been assumed by the Congress for obvious reasons.

We have abdicated our oversight responsibility to the press. We don't think enough about reviewing some of the actions that we have taken until we read them on the editorial pages and on the front pages and watch it on the TV and hear it on radio and so forth. Then we act in what we have commonly characterized in Washington as a knee jerk response.

That reaction oftentimes is summary in nature. It is certainly not comprehensive, and it does not, in my judgment, reflect the thoughtful process that we are undertaking today.

I think we must impose certain limits upon ourselves, certain timetables, procedures, requirements in order to cause the institution to respond to a predetermined process.

I welcomed and cosponsored the Budget and Impoundment Act, which we enacted back when I first came here. There was plenty of go, so to speak, and everybody would come to Washington and vote for those programs that were popular in Louisiana, Arizona, Arkansas, Alabama, and so on, and vote against those programs that were not popular, and then complain furiously because the budget wasn't balanced.

Gosh, the rhetoric of that kind of response is knee deep in the libraries in Arkansas. I can quote to you some very famous men and women who have made great speeches anguishing over the fact that our budget wasn't balanced and on and on and on, then on the same occasion, commit to deepen the channel in the Mississippi River and build the Tennessee Tombigbee and all such as that.

Mr. **Bevill**. That's right.

Mr. **Alexander**. All of which are wonderful projects, by the way.

Mr. **Rhodes**. Don't forget the Arkansas River.

Mr. **Bevill**. And the Central Arizona project.

Mr. **Alexander**. Right. The problem we are facing now, as someone mentioned to me in Arkansas not too long ago, is we have already got the Arkansas River project. We have got our project now. And the funds are limited, and so let's cut back and do some things that will help us enjoy that project a little bit more, like make more money and have less inflation, and all those sorts of things.

I don't have anything but applause for the sunset concept. I think if we force upon ourselves the obligation of oversight, we will do it. And we will reclaim that responsibility that we have abdicated to the press.

Now, the press might not like it, I mean, if we do a better job than they do, because it will cut down on the news value of the issues involved.

If we do a good job, as we are supposed to do, and investigate and oversee these executive agencies, we will, I think, be rewarded ourselves for having done a better job.

The public will view us differently. As you know, when we pass laws that become obsolete or outmoded, or rules that no longer work, and we do not investigate to oversee those laws and change them when they need to be changed, and the first the public knows of the need is some report that is published throughout the news media, then it makes us look bad.

It makes us look like we are not doing our job. It makes us look like the tail is wagging the dog. That is exactly the way it looks to me.

I applaud this effort and support it and wish to participate in refining it in any way that will make this institution work better.

I think that Toby's idea is good, to come in early in January or any time, and devote a period of time to overseeing all of the laws.

There will be great consternation among the bureaucrats in Washington if that occurs. But I am sure change will result from it which will be to the credit of this institution.

Mr. RHODES. The only thing that bothers me is then I won't be able to make speeches about it any more.

Mr. ALEXANDER. There will be plenty of work for all of us, John, don't worry about that.

Mr. RHODES. I am sure of that. I was interested in your feeling sorry for the press, you know, if we straighten everything out. They will find something to write.

Mr. LONG. You are right. Mr. Bevill was discussing the late authorization problem, which perhaps is responsible for two of the most difficult and often-raised questions brought to the Rules Committee.

The first has to do with the waivers that permit the consideration of unauthorized appropriations. You are all very familiar with that.

The second, of course, concerns the large numbers of riders that come to appropriation bills. I think that late authorization contributes in a major way to both of these very serious problems.

Mr. ALEXANDER. Sure.

Mr. LONG. Let's deal for a moment, if we may, as to what as a very practical matter could be done in the way of rules changes or process or procedural changes to help resolve that problem.

I assure you that all of the mail that we have had from the Appropriations Committee, and all the mail we have had from the authorizing committees complaining about this, causes us as much concern as it does you.

We are not happy with this.

Mr. ALEXANDER. As long as we are coexisting with the other body, which has forced us into some of these actions, how can we provide a remedy for this body unless it is agreed to by the other body?

That is the problem we run into. As a practical matter, those fellows can hang anything on a bill that comes down the pike at any time, and it forces us into a defensive position.

You know, we have got——

Mr. LONG. May I make one comment there, Bill. I think that if we had the problem fairly well-resolved within the House itself, the support of the House would enable and empower the Rules Committee to withstand the onslaughts that come from the other body.

Mr. ALEXANDER. Only if you are willing to do it, and that is not often——

Mr. LONG. The Rules Committee has shown substantial political courage in being willing to do that, in my opinion. The problem is a House problem.

The Rules Committee would show even more political courage in withstanding the other body if we could resolve the question within the House of Representatives itself.

I grant you are correct. It would not completely resolve the problem. But I think it would substantially improve the situation.

Mr. ALEXANDER. We are often parties to the conspiracy, you know. If we don't get something done over here, we run over there and get one of those guys to hang it on another bill.

So it comes back this way and we are happy with it. Now, unless we decide in advance that we don't want to participate in the crime, and that is going to be a hard bill of goods to sell around here, I just don't see how we are going to do it.

It is not impossible, but as a practical matter, you know, the Senate has a procedure that we use to circumvent the rules of the House.

Mr. LONG. But do you have any specific suggestions as to what we could do to better control this problem in the House itself?

Or do you, Tom?

Mr. ALEXANDER. Write the Senate rules for them. I think that would help.

Mr. LONG. Recognizing that that problem exists, I think if we could treat it within the House itself, we could handle it better.

We can't solve the problem completely. But this seems a better approach from where I sit as a member of the Rules Committee.

Mr. ALEXANDER. My own response is that it would have to be so rigid that it would be unworkable.

Mr. LONG. That's what worries me. That is what worries all of us on the Rules Committee.

Mr. ALEXANDER. Yes; I think we could establish a procedure and a set of rules that would work. But they would be so rigid they would be unworkable, as a practical matter when we are dealing with a need to legislate, to appropriate.

In the abstract, I would say that it would be extremely difficult to make them workable.

Mr. LONG. Mr. Bevill, do you have any further comment on this in addition to the comments you made before?

Mr. BEVILL. Other than I think, establishing a target date for enactment of authorizing bills, I think, would help the process, and possibly reduce the headaches of the Rules Committee in having to waive points of order.

Mr. **Long**. Right.

Mr. Beilenson.

Mr. **Beilenson**. No questions.

Mr. **Long**. Mr. Derrick.

Mr. **Derrick**. No questions.

[Mr. Alexander's prepared statement follows:]

PREPARED STATEMENT OF HON. BILL ALEXANDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. Chairman and members of the subcommittee, I appreciate your giving me this opportunity to appear before you today and participate in a discussion of what I consider to be one of Congress' most important functions, oversight of the operation of our laws and our federal programs.

During my seven terms in the Congress it has seemed to me that of all our Constitutional authorities, the responsibility for investigating and providing oversight of executive branch activities is the least actively pursued.

In a sense Congress has abdicated a good part of its investigative responsibility to the press. We have tended to dwell on the areas in which the public's interest is most sharply focused at a particular time, on the programs which the public considers of most immediate benefit to it.

As the situation now stands it is almost impossible for committees to resist the public presure to spend virtually all their time dealing with the most recent and most visible problems. We essentially find ourselves fighting a guerilla war against government program abuse, waste, misdirection and indirection. We are continually having to put out brush fires. This results in neglect of our responsibility to reexamine and reevaluate laws that have become obsolete, that are unworkable, that are ineffective and that are counterproductive.

When the press takes over this responsibility and reveals its discoveries to the public Congress looks foolish.

Time and again over the years that I have been in the Congress we in the House have grappled with the issue of accomplishing the needed investigations of Federal law and program operation. Yet, thus far we have failed to pull together the blueprint we can follow to success.

It seems to me that we have tried most all of the other viable avenues available to us. They have not served our people as we had hoped. I am convinced that we must establish a "sunset" investigative discipline system which mandates an orderly, timely, and comprehensive review of the operation of our laws and programs on a scheduled basis. Such a system should help us avoid the periodic exercise of reinventing the wheel and cluttering the law books. It should help us become master wheelwrights, able to repair what we already have, to discard that which is not working as it was intended, to repeal the laws which have outlived their usefulness, and to better enable us to shape those new laws for which we find a public need.

I don't happen to share the oft-expressed view that the unsatisfactory level of congressional activity in investigating the manner in which our laws and federal programs are serving our people grows out of a reluctance on the part of committee members and leadership to tackle the hard, nitty-gritty and often dull job of oversight.

As a former member of the House Committee on Government Operations, I am very familiar with the valiant and unending efforts of that committee to bring order, organization and effectiveness to oversight activities.

As a former member of the House Committee on Agriculture, and one of its subcommittee chairman, I am likewise familiar with the seemingly endless demands for patchwork adjustments to our laws flowing from the mismatch of existing programs and current and future needs of our people.

And, as a member of the Committee on Appropriations I am sharply aware of the annual struggle we have to keep our appropriations bills focused on spending issues while avoiding becoming embroiled in matters more appropriately the business of legislative committees.

In the case of our appropriations bills, we spend entirely too much of our energies with amendment proposals to resolve problems which could very well have been solved in the legislative committee had we had a mandated investigative program schedule in place. While the decisions we may make might not be changed, or even improved, they would certainly have been more fairly and carefully examined and debated through the orderly legislative committee process than in hurried, often harried, and frequently emotional forum of the House floor.

These riders to the appropriations bills not only divert scarce committee resources from their primary responsibility of studying, analyzing and recommending between competing claims on the Federal treasury, they are not good law. In addition, these riders unnecessarily complicate an already complex executive branch budget management activity.

A sunset law could help us correct this growing problem.

There are three other specific issues presented by the proposals that you now have under consideration that I would address briefly.

The first is the experiment, or demonstration, provided for in House Resolution 218. Given the requirements we have set ourselves under the Congressional Budget Control and Impoundment Act of 1974, for reporting, by May 15 of each year, bills affecting Federal spending coupled with the heavy schedule resulting from these and our appropriations bills, it might seem that the proposal in House Resolution 218 too heavily loads the opening months of the year. It calls for a period of 21 consecutive calendar days at the very beginning of the congressional session to be used as an initial test of the way a legally mandated program operation and permanent law investigative plan might work.

But, if not January and/or February, when?

Consider the history of congressional sessions of the past decade. When, except in these first 2 months of the year, can we really be said to have had a time-block in which the attention of the Congress and the Nation could really be focused on program oversight and the good that can be accomplished for our people through it? Furthermore, the work done through the experiment provided for in H. Res. 218 can contribute significantly to the accomplishment of the work we must do annually in order to comply with the requirements of the Budget Act.

I believe we must give serious and thoughtful consideration to this proposal.

The other matter which I would address briefly, is the issue of establishing identification codes, names, whatever you want to call them, for groupings of programs and/or laws to be reviewed. Whether the lead responsibility for this job is assigned to an internal Congressional organization, the General Accounting Office, the Congressional Research Service, the Congressional Budget Office or some other combination is not what concerns me here.

What does concern me is that the organization which has the lead responsibility be mandated to work as closely as possible with all interested parties to insure that there is uniformity in the grouping or categorical identifications used so that you do not have to resort to using a divining rod, as is too often the case now, to avoid the time wastage and misunderstandings that can arise when Congressional committees, individual members, the executive branch, and State and local governments seek information from each other.

Finally, I want to urge as strongly as possible that whatever sunset legislation we finally formulate require close coordination between the House and Senate in the selection and scheduling of those laws and programs which are to be reviewed. It is only through this kind of cooperation that we would be able to insure the most effective, efficient and economical use of our energies and time.

It is time for the Congress to take up the reins of its investigative responsibility and drive toward creating the frame that would insure orderly and effective discharge of its duty in this year.

Thank you again for giving me the opportunity to share my views with you.

Mr. Long. Without objection, the Chair wishes to place in the record, as though read, the following statements submitted by Congressmen Don Fuqua of Florida and Don Albosta of Michigan.

STATEMENT OF HON. DON FUQUA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Fuqua. Mr. Chairman, in your letter of invitation you stated that, "Our recent experience in making major program costs in an Omnibus Reconcilation Bill leaves me convinced that we must device a workable process for systematic, indepth reviews of programs that will provide Members the information they need to make critical budget choices." You have also asked that the committes share with your subcommittee our experiences and recommendations for improvements in the approach of the House to oversight.

Mr. Chairman, your request, in my mind, raises the issue of how the House legislates since within the areas of jurisdiction for Science and Technology our legislative and oversight activities are closely linked. Your letter also refers to the Omnibus Reconciliation Bill, and by commenting on the topic of oversight in the contest of critical budget choices, you have introduced authorization and appropriations legislative activities in addition in the requirements of the Budget and Impoundment Act.

In thinking about this testimony I thought it best to briefly explain how we perform our activities and do that in all modesty because, although I am very proud of it, I think there are other ways which work well for other committees with different jurisdiction.

It may be that our jurisdiction lends itself to oversight more easily since in order to legislate an annual authorization we must spend our time and that of the staff assessing the progress of research and technology development and of scientific programs and projects. R. & D. as a subject can often be broken into discrete areas where better measurement can be obtained. It is possible to use the authorization bill approach more widely, but I will address this in more detail later.

Our legislative oversight activities start in the fall of each year when the staff begins meeting with agency officials to review and compare program and project performance with the stated goals and objectives and milestones given to the committee in the last budget cycle. From these reviews, and from oversight trips and reports, the agenda for the following year is developed. In the early months the budget request is submitted, hearings on it held, and each authorization is acted on by the committee.

Our established procedures used by the committee in the past greatly helped the committee this year when faced with the reconciliation bills, and their new requirements. Each year we have sent our recommendations for funding levels to the Budget Committee based on our subcommittee hearings, staff review, and subcommittee actions, including preliminary mark-up of the actual budget request. This year we were able, because of adherence to this self-imposed scheduled for action, to incorporate authorization language in the Omnibus Reconciliation Bill for our jurisdictional agencies, with the exception of NASA which was permitted to be taken to the floor ahead of the Reconciliation Bill.

The process which I have described consumes most of the time of the committee after the Congress convenes until May 15.

I am constantly surprised when I hear statements that the annual authorization process has to be substantially modified because time has to be made available for oversight. In my judgment the annual authorization process, properly carried out, is legislative oversight, and is the activity which also identifies areas for specific oversight. When carried out in a substantive way it provides an opportunity for continuous monitoring, measurement, and oversight of programs and projects legislated by the Congress.

The agency budgets, such as NASA and DOE when presented to us, are line-itemed sufficiently to a level of detail where the requesting agency has to tell us if it is making any changes. We are, therefore, able to ask our questions about what changes they have made. If there are changes within the program, of course, that is often permissible under our legislation, but it requires that the agency let us know if they are substantial.

During our program review in December and January we ask the agencies what significant accomplishments have been made in the previous year and what significant problems have occurred. This process gives us a much better assessment about the level of authorization in future years.

Having almost completed the review exercise I have described the members and staff sort out the various problem areas that need more attention. Then more questions are sent to the agency or department, preparatory to the actual hearings that we conduct as soon as the budget comes up.

During the months of activity I have been discussing we have in fact set our oversight agenda for the year within each subcommittee. In going through the programs, we learn substantial amounts that are helpful in figuring out how the members and the staff can best use our time in follow-on oversight activities. We have set both an oversight and a foresight agenda by doing that. For example, this year we held hearings on the effect of the Clean Air Act Amendments on new energy technologies and resources. One finding of the hearing was that monitoring technology has not received the attention that it should and holds promise as a different approach to enforcement of pollution reduction. These hearings were added to our agenda during our review of the fiscal year 1982 request of DOE.

The CRS has prepared a comparison of House committee oversight activities of the 95th and 96th Congresses, dated January 5, 1981, and it gives our committee an "A" for its detailed oversight agenda, tracking procedure, and continuous oversight review. Nevertheless, we still have some work to do since our committee budget received no more than a "D" before the Accounts Subcommittee when we sought to improve our capability still further this year.

As the CRS indicates, our activity report prepared ". . . at the conclusion of the Congress is equally extensive and detailed. . . ." It goes on to say that "For the past two Congresses, the Committee on Science and Technology has been one of the most consistent in implementing oversight efforts in those areas in which investigations were planned. Its oversight agenda and final report are cross referenced and little duplication exists within the existing subcommittee structure."

In this Congress we have already taken our oversight activities one step further by tasking our Investigations and Oversight Subcommittee to review and study the implementation of a specific act by the Department of Energy. The subcommittee's recommendations have already been implemented by the Department, and the committee sent the report, which represents savings of millions of dollars, to the House for printing yesterday, October 15. This is by way of introduction to the topic of the other oversight activities in which we engage. We have traditionally distinguished between agency oversight, policy oversight, historical oversight, and oversight related to emerging issues or foresight.

Already this year our committee and subcommittees have engaged in special oversight, that is, oversight for which we do not have legislative jurisdiction under rule X, clause 1, and specific oversight which is more investigative in nature.

Mr. Chairman, this testimony has attempted to portray how our committee performs its oversight. Our long tradition of annual authorization and review of our jurisdictional agencies and programs has served us well. We have found that out work dovetails and can be coordinated with the new requirements imposed by the reconciliation actions this year.

I do not feel that any purpose is served, however, by experimenting with oversight, as proposed by H. Res. 218 or by formalizing an agenda in the House by voting on specific topics to be overseen. Our House committees represent the breadth and length of the entire operations and functions of the other two branches of the Federal Government and their actions affect every American citizen. To attempt to further place our activities into discrete compartments between legislative and non-legislative activities, seems to me to be counterproductive. Our committee is hard pressed now to complete its authorization agenda by May 15. To delay the time for committee consideration of any bill, resolution or report of a conference committee except for good cause and on a case-by-case basis by the Speaker (to paraphrase H. Res. 218) could keep us in training using the wrong sized ball, and tie up our members and staff at the most critical part of the budget process. I would suggest you apply the first law of wingwalking to any new approach—never let go of what you've got, until you have a firm grip on something else.

I would suggest Mr. Chairman that good oversight and the measurement of our efforts be left to the others outside the Congress. Our responsibility to our constituents and to the American people is to fairly represent them—so far, our committee has performed its oversight very well, I feel. I would really only recommend that other committees take advantage of the tool available in multiyear, biannual or annual authorization to perform their oversight, rather than attempting to limit or direct the manner in which committees perform their oversight.

My other suggestion is simply this. As the chairman of an authorizing committee with a good record of getting our bills out on time, we are nevertheless often placed at a disadvantage vis-a-vis requests for appropriations waivers of rule XXI, clause 2 because of the crowded schedule. Our committee has very good working relations with the House Appropriations subcommittees. Nevertheless, from time to time some enthusiasm to authorize crops up during the appropriations process. I would urge your subcommittee to favorably consider requiring that each request by the Appropriations Committee for waiver of rule XXI, clause 2 be accompanied by a letter of recommendation from the committee with legislative jurisdiction. In this way, it would be possible for your decision to be facilitated, and in most instances, for any problems to be worked out in advance of your hearing on the rule request.

STATEMENT OF HON. DONALD JOSEPH ALBOSTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Albosta. Chairman Long, I first want to thank you for your thoughtful invitation to testify before the Subcommittee on the Legislative Process as you continue your comprehensive hearings on proposals which can substantially improve both legislative and the oversight processes of Congress. I also appreciate the time and attention that the members of the subcommittee have paid to the problems and the proposals in this area.

As you know, since early September 1981, I have been communicating with the Speaker of the House, other Members of the Leadership, and the committee and subcommittee chairmen and chairwomen, suggesting that the House of Representatives undertake a coordinated series of field hearings during the period between legislative sessions. I suggested that each committee meet in each major region of the country, and hold a minimum number of hearings on substantive issues within each committee's jurisdiction. This action is particularly important, now that the Congress is being asked to approve one of the most fundamental reorganizations and some of the most drastic changes in direction that the Federal Government has ever experienced. These proposals are coming so fast that the Congress hardly has time to analyze them sufficiently, and therefore, it is virtually certain that their potential impact is poorly understood by the public-at-large. While these proposals are intended to address real problems, there may also be better solutions which witnesses in field hearings might well be able to suggest. Therefore, I have suggested that the Congress make a coordinated effort through this subcommittee, through leadership task forces, and perhaps through the adoption of a resolution, such as H. Res. 218, submitted by our colleague, Representative Moffett which would create a legislative moratorium and oversight season. I would suggest, however, that the resolution be modified somewhat to incorporate the requirement for field hearings. Even without a formal resolution, it is clear that the various chairmen and chairwomen, and the leadership have the authority to schedule numerous field hearings on subjects within their jurisdiction.

The second step in this process is equally important. That second step that I would suggest is that the results of these field hearings, the testimony from the average workers, the housewives, the farmers, the business people be pulled together by each subcommittee, each committee to form a response from the people to the proposals we are being asked to approve by the administration, and a response to the problems that they see in Government today, themselves. Through this kind of dialogue with citizens we can put together a better consensus about where this Government should be going, and also about the process that it should use in the future to get there. We can determine whether this particular vehicle of field oversight hearings will be a helpful one in other years. We can determine whether the quality and the substance of what we hear in the field differs substantially from the message we receive from those who can afford to come to Washington regularly, or retain Washington representation, or work closely with each Bureau, and administration, and Department. I have a feeling that there are many people with many fine and different ideas, who have been frustrated by the inability to appear before the decisionmakers of this country, and that those people, if given the chance, can provide us with a better, more balanced sense of where we are and where we ought to be going.

Finally, the results of each committee's oversight field hearings could become part of a more comprehensive plan for legislative action. This alternative plan need not be in final form at the end of the series of field hearings. It need only serve as an agenda for action in the House of Representatives. This could help shift the House from a defensive mode in which we're simply reacting, to a positive approach in which we present responsible policy on our own initiative, in cooperating with the suggestions of the people, as presented in large part during the field oversight period.

There is a popular editorial column, called "My Turn", in which various citizens, some expert, and some not, propose alternative approaches in various issues in public policy. By taking several weeks to go on the road, and bringing the actual committees to the places where the problems really are, and the places where many of the answers really are, we can give more Americans a chance to stand up and say, "It's my turn".

Thank you.

Mr. LONG. Thank you, gentlemen. We are very appreciative of your coming in and spending the time, preparing your remarks and testifying.

The subcommittee stands adjourned, subject to call of the Chair.

[Whereupon, at 11:35 a.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

CONGRESSIONAL OVERSIGHT OF FEDERAL PROGRAMS

MONDAY, NOVEMBER 2, 1981

House of Representatives,
Subcommittee on the Legislative Process,
Committee on Rules,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:05 p.m., in room H-313, the Capitol, Hon. Gillis W. Long (chairman of the subcommittee) presiding.

Present: Representatives Long and Lott.

Mr. Long. The subcommittee will be in order.

Without objection, all statements will be included in the hearing record.

We are pleased to have you with us, Mr. Horton. We are conducting an ongoing series of hearings involving the principle of congressional oversight. You have nearly two decades of service in the House, and you have been deeply involved in this procedure. We appreciate your coming forward as ranking member of the oversight committee to share your insights with us.

We have never quite forgiven you in the South for leaving. You have made two terrible mistakes—you left the South and you turned Republican. You see what happens. You went north, and the Sunbelt has prospered.

Mr. Horton. I have been trying to help these fellows up in the Northeast.

STATEMENT OF HON. FRANK HORTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Horton. Mr. Chairman, I appreciate this opportunity to testify before this committee.

First of all, by way of an aside statement, I went back to Baton Rouge on October 7 for my 40th reunion. I was graduated from LSU in 1941. It was a great pleasure to visit with my college schoolmates, many of whom I had not seen in 40 years. The war came along, and many of them went different ways.

As you indicated, I went a different path, so many of them I hadn't seen, but it was great to renew acquaintances, and the Governor of Louisiana, who happens to be a Republican and a good friend of mine, who served with you and me in the House, invited me and my wife to stay with them at the mansion, and we had the great pleasure of actually staying overnight in the mansion in

Baton Rouge, which was a great honor, and went to the football game with them. LSU won that one. They played Kentucky.

We went to church with them the next morning and then visited with my two brothers and their families and went over to Houston and visited with them. We had a nice week end in Baton Rouge and Louisiana. I agree—it has certainly moved forward.

Mr. Long. It is amazing how much progress has been made. We welcome you back at any time.

Mr. Horton. Thank you very much.

I have a prepared statement which I will be glad to submit and just say a couple of words about the oversight function.

Mr. Long. Your statement will be made a part of the record.

Mr. Horton. In general, I would say this, that oversight, in my judgment, is one of the two responsibilities, as legislators, we have. Of course, we have the responsibility to legislate, and that is, of course, an important responsibility, but the other one which is often overlooked is this responsibility of oversight, and I think it is an equally responsible concern that we have. I think we should spend equal time on oversight. I would be concerned with such legislation.

Too often we enact legislation and then we go off and forget about it. We create agencies and departments and forget about them and don't perform the proper oversight.

I witnessed it very clearly when I was Chairman of the Paperwork Commission. We found in the program ERISA, which was the pension program, that the forms that were required as a result of the legislation literally made it so that employers would not go into the pension program. It was really counterproductive. We had tried to enact legislation which would make it possible for people to have pension programs and plans that could continue, even after they might have left one employment.

We had it visibly shown to us up in Rochester, when Hickock went out of business; they just literally left a lot of people, and even though they had 19 years and 6 months, their program was such that they couldn't start off. It was a good program, and the idea the Congress had was a good one. It was to provide a program where they could have their pension plans continue, and they could qualify and have that vested.

But what was happening was that the paperwork was so onerous that many businesses just said, "no," and I had a lot of people testify to me that way back in my district when I would go home. That subcommittee, which was helped by John Dent—and the ranking member was John Erlenborn—actually did go back and oversighted that very promptly after the legislation had been passed and after all these requirements for forms and everything had been sent out, and they have materially cut back on the amount of paperwork; and it still hasn't been completely settled, but that was a good illustration of what I meant by oversight.

Now, as you know, the Government Operations Committee is responsible for oversight in the House of Representatives. That is our responsibility. We are an oversight committee, but we can't possibly do it all. It is impractical even to think we could do it all. But we do have some tools to do it with.

We have established now, with the exception of four agencies, inspector generals in all these agencies, and that is an in-house operation for audit and for ferreting out what these problems are, report to the Congress so we get the executive—the executive first gets this information; we as the Congress get it so we can oversight based on what they do and in addition to that, as you know, we have the Comptroller General, the General Accounting Office, which is an arm of the Congress; so that gives us another tool.

Mr. LONG. What about other committees? How about their making more effective use of the Inspector General and the General Accounting Office? Have you any suggestions on that?

Mr. HORTON. Yes; that is just what I was going to get to.

As you know, in the Budget Reform Act, which we passed several years ago, the oversight function was given to the different committees, and the Government Operations Committee had sort of a slap on the wrist—take a look at it—at the beginning of the Congress, and Mr. Brooks' staff checked with staffs of the other committees, but there is no enforcement to that and there is no real punch to it.

Some of them do have subcommittees that are designed especially for oversight, but each committee ought to do the oversight in the area in which it is responsible because they know what the programs are; they know what the agencies are. They just don't do it. They don't go back and do it.

In my judgment, this is one place where we really ought to beef the thing up.

I have made a number of little recommendations. Some of these bills that are in—they are good bills, and I think basically what they are trying to do is discipline us to do this oversight—you know, like the sunset provisions. Of course, I think Dave Stockman sunsetted everything with this budget reconciliation thing. He just threw everything up on the table, and it got sunsetted real quick, because every program got subjected to a scrutiny and very quickly. Now, that is not a good way to do it because it is too quick; it is too fast; you don't really get an objective hard look at the programs, but you do something about them.

Sunsetting and legislative veto are manifestations of the concern that the Congress has in this area, but I don't think they are practical. I think for us to do that by requirement is going to create more problems than it will solve.

Mr. LONG. In that regard, last year this committee reported H.R. 5858. We made substantial changes in the concept of sunset that had been presented around the Hill for the last 5, 6, or maybe even 8 years.

We had determined that it just isn't possible to examine in-depth every single program.

Our bill would permit the committees to set their own oversight system, and treat all programs equally—direct spending and tax expenditures. In developing the bill we tried to strike a balance between a very rigid process which can create some horrendous problems, and current procedures, which are really not quite doing the job. We moved away from the original sunset process. One of the members of the other body described sunset as perhaps an idea whose time had come and gone.

Mr. HORTON. That happens, but I do think that the concept is a good one, because it keeps us on track. I agree with you about the rigidity. If you lay anything down too rigid, we are not going to get anything done, but I do think that the committees ought to be charged with oversight; they ought to be able to lay out their own agenda, but they ought to have the responsibility to do it.

Mr. LONG. I favor that approach in general.

Is there any problem with respect to those committees and subcommittees where, in a lot of instances, the legislation is their baby—are they going to be tough enough on oversight?

Mr. HORTON. Well, of course, that is part of the problem. They should be, and the desired procedure would be for them to do it. Of course, the Government Operations Committee can pick up a lot of it, but, as I said earlier, the Government Operations Committee just can't do it all.

As you know, I served on the Select Committee on Committees, Jerry Patterson headed that up in the last Congress, and one of the things we found was that Members served on so many committees—for example, on the Government Operations Committee, with the exception of myself and one or two others, everybody serves on two committees, and Congressman Brooks will tell you we have an awful time getting everybody together there to even take up business, let alone really take on something. When we have a hearing, we are lucky if we get the ranking member and the chairman of the subcommittee. It is very hard to get Members there, because they serve on so many committees.

We found—I think one from Louisiana was the one who had the most committees; John Breaux served on nine committees and subcommittees. A fellow can't take care of his business when he serves on that many.

Mr. LONG. That relates, of course, to that old problem of scheduling and overobligation of everybody's time.

Talk a little bit, if you will, about your experience with the committee schedules of the House and the failure to maintain those once they are set forth. Give us anything specific that you think might be done with regard to that whole problem.

Mr. HORTON. In my view, I think we ought to come toward something that that committee, that Select Committee on Committees, proposed, and that is to try to get us down to a point where we are only serving on a minimum of committees and subcommittees.

In my committee assignment—I don't have any other major committees. That has permitted me to take on outside activities from time to time. I was able to take on the paperwork responsibility, the Chairman of the Paperwork Commission. I was able to serve on the Procurement Commission when that came along, but as far as the House is concerned, I have tried to stay on just one committee.

If you have two committees, you are, of necessity, going to have those two committees; then you are going to have at least two subcommittees of each committee, so you are already up to six, and then everybody wants to serve on select committees—I think Claude Pepper must have almost everybody on his Select Committee on Aging.

We cut out a lot of those, but any of those things, if you try to do a job, it is going to take time; but when you get into this business of trying to do oversight in the committees, and the members are just gone, it is meaningless. That is why I think it is important to start off with the idea of having some sort of a limit on the size, or the number, of committees upon which a Member may serve. I think that is something the Congress would have to do.

In the meantime, I think we are going to have to put the burden on the committees' backs to do a better job of oversight. As I say, some of them do. I think Sam Gibbons heads up the Oversight Committee of Ways and Means, and I think he does a pretty good job on some of the things he does there. I don't want to mention one and leave out any because some of them really do a good job, but they have to buckle down. The Speaker probably should schedule the time so that the committees can have time for this oversight.

Mr. LONG. As you know, beginning the session on Wednesday at 3 o'clock was a part of this effort to make more time. But what often happens is, they go into their committee at 10 o'clock, work until lunchtime, then getting a quorum back after lunch becomes difficult.

Mr. HORTON. Not only that, but after we get into the session, that 3 o'clock Wednesday gets lost real quick, and then you start going in at 10 o'clock, Wednesday, Thursday, and Friday, if we have a Friday session.

The result is that we find we are unable to meet; Members want to be on the floor; Members have other things to do—so it is meaningless.

I think a part of the scheduling ought to be set up by the Speaker so that the committees do have time for this oversight function. It is a very serious matter, in my judgment, because you can save a lot of money, and in my testimony I have a couple of little examples where we have saved literally millions of dollars. Some of the work we did on paperwork. There is a good example.

Members—Gus Yatron, a Democrat from Pennsylvania, was in before us and was talking about the Government Operations Committee about this problem of paperwork. Well, in his bill, and in some of the other bills, they wanted to give it to the General Accounting Office. Well, Elmer Staats was the next witness, and his main plea was: "Don't give it to us; we can't do it." So Holifield was just about ready to throw the whole thing out.

I had been on the procurement commission, and I said to Chet, "Why don't we work out something here along the lines of the Procurement Commission and have a paperwork commission?" And ultimately that is what we did; we created a statutory commission with a 2-year life, and we had 14 members of the commission set up this little executive agency to take a look at paperwork, and we did a job, but the Congress could not do it, and the General Accounting Office could not do it, because of the limitations of staff, limitations on time, and everything else.

It was an impractical thing for us to do. The time has come when it is important to the taxpayer that that type of thing be done. I mean who knows whether the Department of Education should be done away with. Somebody ought to look at it and determine if it is doing its job. Look at all these agencies.

Jack Brooks and I started off last year to try to do away with some of these commissions, and all we did was pick—what was it?—200 of them. It was about 280 of these different reports that were required to be made. We said if there is any controversy, we will take it out. We ended up with about 75 or something like that.

Mr. LONG. Without any controversy, that you automatically took out?

Mr. HORTON. Yes; but there were a lot of others, if we had just knuckled down.

Mr. LONG. And made a hard decision?

Mr. HORTON. Yes. But we went easy with it.

The point is, all this stuff is lying around all over the Federal Government and nobody grabs hold of it. It is important for us to do this oversight function.

Committees have a responsibility to do it. They can do it with the legislative committee that has oversight or set up a special committee.

I think probably it would do better to do it both ways, to have a special committee, but then have the subcommittee that is charged especially with that—charge them with that responsibility over the area that they have jurisdiction.

I know the concern you have, like the military, the armed services, you know, they are not going to—they are going to try to be helpful to the military, and the commerce, and whatever, but, on the other hand, they can do some things which would be very important, it seems to me, and then if there is any slack, we can pick it up in the Government Operations Committee.

Mr. LONG. Your chairman testified before this subcommittee earlier in the year. He talked about the difficulty of compiling the oversight plans of House committees and then following up on this.

In your statement, you say that the authority to collect, compile, and then publish this information should be strengthened. Do you have any specifics as to how we could do that?

Mr. HORTON. I really think if you are going to do anything, this is where you might want to have some requirement either from the Rules Committee or from the House, itself, to give some authority to that. Because, at the present time, it is just a staff function. The time is so limited. I think Brooks talked about that. It is 60 days after the start of a session, but the time is so limited. In that time you are organizing committees and all the other things, so you really can't do the job. You really need a little bit more time, and then I think also it would be important to have some sort of teeth in that process. They are not going to take the Government Operations Committee, but they would maybe take the Rules Committee or the House requirement that they do this. We are stepping on a little delicate ground there.

Mr. LONG. It gets to be very delicate when you start doing this.

Mr. HORTON. I know if I was chairman of a committee, and I went around to the chairman of the Armed Services Committee, and it happened to be Bill Dickinson, and I said, "Look, Bill, you have to shape up here," he would say, "Stick to your own knitting, buddy."

So there has to be some rule. Perhaps the House has to adopt a rule requiring it. So, to this extent, you probably ought not to have the flexibility to lay out the program, but then give them flexibility to do it.

Mr. LONG. If you had an opportunity to look over Mr. Lott's House Resolution 100—have you seen it?

Mr. HORTON. I have looked at it generally. I haven't read it specifically.

Mr. LONG. He would require committees to formally adopt oversight agendas and submit those to the Committee on Goverment Operations. He would require that the Government Operations Committee report a consolidated oversight resolution to the House for approval after holding hearings on the individual agendas, and require the House to complete action on the consolidated agenda resolution within 100 days after convening of the Congress. Does this permit the degree of flexibility that you think is needed?

Mr. HORTON. I don't think so. He is on the right track. I think it is a good idea, but that is what I said before. If you give that authority to the Government Operations Committee, it is not going to work, even though you have adopted a resolution. It is going to be better to come from the House, itself, to require that. But I think he is just a little too rigid there when he requires these hearings and all this sort of thing and adopting the program and putting it in concrete, so to speak. It may sound like I am against myself, but I am not.

Mr. LONG. You favor allowing the committees to set their own agendas?

Mr. HORTON. Yes; I think they should be able to set their own agenda and report at the end of the session. Just like the Government Operations Committee, when we go before the Committee on House Administration. We make a report of the things that we have done. We put our reports under the light, and I think they could do something like that to demonstrate what they have done.

The problem of making it so rigid, it seems to me, is well intentioned, but I just think it would not work to require hearings and all the other things that it seems to me would bog down in paperwork and really not do the job that needs to be done. That is what I would be concerned about.

In other words, you would be sort of spinning your wheels before you got started. And 100 days—you know that is a long time when you get to looking at it. You could maybe do a lot of oversight in those days.

I think the basic problem, as I see it, is that we have to approach oversight as a function of the legislature that stands on the same parallel or the same platform as legislative action and until you really adopt it in that atmosphere, then it is an ancillary function that goes along.

You do it if you can. But when you stop to think about the programs that we have, the agencies we have, and many times they just go without anybody ever looking at them.

Mr. LONG. If the trough runs dry with respect to money, do you think this will point the legislative body back toward closer oversight?

Mr. HORTON. I think, as I said earlier, and one of the things I have said about what David Stockman did, to begin with, in the budget process and the reconciliation is, he made us stop to think. He threw it all up on the board.

Mr. LONG. Surely it is not the way to do it, though.

Mr. HORTON. No. But, as I say, put it all up on the board. When you went home, you talked to people, and they were evaluating, period, and you heard them talk about evaluation of programs. But the Congress ought to do that. As money runs short, yes, you are going to find that problem, but the Congress ought to be in the lead on that and ought to be looking at these things and making suggestions before you get to that desperate stage.

Mr. LONG. One of the reasons we are looking at this now is to try to make the procedure work more easily than it has in the past.

Mr. HORTON. I would say this: There is nothing sexy about it, and it is not going to get headlines, but I think it is one of the most important things we can do. I really do. I have been involved in it all 18 years. The first assignment I had—I didn't ask for Government Operations; I wanted to get on Judiciary—after I got on the committee, I was very glad I got assigned. It has a tremendous responsibility, and, as I say, this oversight function is one that we just stick under the rug all the time. We never really get down to it. It can be very meaningful.

I have seen literally billions of dollars that we have been able to save by hearings, some of them more glamorous than others, but if you really do your job, you can save a lot of money; you can cut down on the bureaucracy; you can cut down on the paperwork; you can cut down on the regulations, all the other things, by going back and taking a look.

Mr. LONG. Your responsibility has been directed to the procedures and processes and the bureaucracy in the Government itself, without looking at the effectiveness of the major programs enacted by the Congress?

Mr. HORTON. That is right.

Mr. LONG. That is where the real big money is.

Mr. HORTON. We see it—when we get into reorganizations; we set up a new agency; we set up—like we did with HUD, we did with Education, we did with Energy, with the Energy Research and Development Corporation, and the reorganizations that have come along. We talk in terms of how effective it is going to be, but we don't have the chance to do that type of oversight that I was talking about. A lot of this could be avoided by the Congress being a little bit more aggressive in its oversight function.

Mr. LONG. Well, thank you very much, Frank. We appreciate your coming. We know of your interest in this and the contribution you have made over the years. As you say, it is one of those not particularly rewarding things, but, again, it is an absolutely essential task that needs to be done. Perhaps one of the things you and I might give some thought to is how it can be made a little bit more politically rewarding. I think it will be more rewarding, as the times and circumstances change. Perhaps we can jointly accomplish making it work more effectively.

Mr. HORTON. I want to indicate to you my willingness to help in any way I possibly can in furthering this goal. I have seen it happen, like in the Paperwork Commission report we made, and some of the things we have done to follow up. Literally, we have saved billions of dollars in unnecessary forms, and some of the legislation we enacted last year can result in even further savings. So it does have, especially in this time when we are looking at the value of the dollar, it is a very important ingredient to effective government. It involves programs that are too big, programs that ought to be done away with, reports that ought to be done away with; it involves the size of the bureaucracy and what can be done to reduce the bureaucracy. It involves what I call strangulation by regulation.

Many industries and businesses, small businesses particularly, have gone out of business because of the intervention of the Federal Government. And all these things, if we took a hard look at them in our various committees, as a part of our function, could have been streamlined, could have been changed, done away with. Somebody has to make those decisions, and it is too bad that an administration has to come in under the threat of the gun, so to speak, to do away with these things, because lots of—when you take the meat ax, that is what happens; you lose a lot of good programs, and you will never get them back on.

[Mr. Horton's prepared statement follows:]

PREPARED STATEMENT OF HON. FRANK HORTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman and members of the subcommittee, I want to thank you for the opportunity to appear before you today to speak on the subject of congressional oversight of Federal programs. I have been involved in oversight for the 19 years that I have served on the Government Operations Committee. I hope that my thoughts will help the committee as it considers various proposals to formalize the oversight responsibility of Congress.

As the Nation's primary legislative body, the Congress has to distinct functions to perform: To legislate and to execute its oversight responsibility. Since the founding of this country, successive Congresses have demonstrated an unqualified ability to legislate. The thousands of programs, laws, bureaus, agencies, and departments approved over the years are testaments to that ability. The same cannot be said of our record on oversight.

The legislative branch of government has devoted and continues to devote more time to the enactment of programs which, because of their complexity, have increased the discretionary power of the bureaucracy. In essence, we have abdicated over the years significant control over the taxpayers' money and witnessed an alarming growth in waste, fraud, mismanagement, and redtape. In recent years, Congress and the executive branch have taken steps to halt that trend and achieve a greater accountability of public funds.

Today, when we are striving to restore the economy, bolster our defenses, and reduce the number of government regulations, it is essential that we actively utilize every tool at our disposal to promote conomy and efficiency in government.

As envisioned by those who drafted the Legisaltive Reorganization Acts of 1946 and 1970, the purpose of congressional oversight is to insure through hearings, investigations and reports, that programs authorized by Congress comply with congressional intent and direction. Although several acts of Congress require congressional oversight, such as the Budget and Improvement Control Act of 1974, and the Federal Advisory Committee Act of 1972, the record on oversight activities is woefully lacking. This is indeed infortunate because there is more than amply evidence supporting the benefits to be derived from oversight activities.

Last May, the Legislation and National Security Subcommittee of the Government Operations Committee held hearing on certain foreign military sales practices that have cost the American taxpayer up to $800 million since 1976.

The purpose of the subcommittee's hearing was to review the procedures for establishing, then collecting original research and development and other production costs on foreign military sales.

The Department of Defense spends billions of dollars for research and development and production of weapons systems. When U.S. weapons are sold abroad, these costs whould be included in the selling price. There is nothing unusual about this, in fact, it is a normal business practice. In other words, when you buy a Ford or Chevrolet, you do not simply pay for the production costs, you also pay for the original research and development and overhead costs that went into that car.

In 1976, the Congress approved legislation to promote weapons standardization among our NATO allies. A provision of that law permits research and development costs to be waived if the sales promote weapons standardization. Without such standardization, our ability to wage a successful fight along side our 14 allies could be severely hampered. Supplying each nation with its own distinct munitions and replacement parts would become a supplier's nightmare.

Waiving costs for NATO standardization could increase military prepareness and perhaps save money in the long run. However, our subcommittee investigation found out that the waiver was being granted rather routinely and that there were no standards or criteria applied. In fact, two Department of Defense audit agencies also criticized the practice. As one report put it, "The Departmnet of Defense has a passive attitude toward recoupment." Neither the Congress nor the American people are prepared to accept a "passive mood" when it comes to saving money, particularly sums of $800 million or more.

This is but one of many examples of how instrumental oversight can be in reducing unnecessary and costly expenditures. This specific example, like others, surfaced in part through the help of the General Accounting Office. I mention this to broaden the focus of the remarks.

It is clear that congressional oversight cannot be accomplished by solely relying on the Government Operations Committee or other committees of the House. Obvious staffing limitations, combined with time and scheduling problems, require us to rely on other resources. It is in this context that my committee and others have actively worked with the GAO.

Just as important to the conduct of oversight are the 16 offices of Inspector General established by the Government Operations Committee. As independent investigators within the principle agencies and departments of the Government, they are charged by the Congress to identify instances of fraud, waste, and abuse in their respective agencies. Since its institution in 1978, the Office of Inspector General at the Department of Health and Human Services—formerly the Department of Health, Education, and Welfare—has enabled the Congress to achieve significant savings. You will recall that the Inspector General reported to the Congress that fraud, waste, and abuse within the Department totalled approximately $6.6 billion. As a result of his investigations, the House deleted $1 billion from the then-HEW budget.

Through the effective and coordinated use of these tools, the committees of the House and Senate, the General Accounting Office, and the Offices of Inspector General, the Congress possesses the fundamental means of effectively carrying out its oversight responsibility. We on the Government Operations Committee, like you on this subcommittee, are well acquainted with the problems in translating our commitment to our oversight responsibility into a practical reality.

In a questionnaire to all Members of the House, the Select Committee on Committees—which I was privileged to serve on—found that a large majority of the Members agreed that both the quality and quantity of oversight are inadequate. There was also agreement on the principal reasons for that inadequacy—the lack of planning, commitment, staff expertise, and followthrough. However, there was no consensus on how to correct this situation.

This lack of consensus does not mean that the Congress has been idle. Significant steps have been taken in recent years to improve the oversight performance of the Congress. Workshops have been held to upgrade staff oversight and investigative techniques and procedures. A manual on the conduct of oversight has been prepared and is in general use. A clearinghouse on the future has been established to encourage systematic thinking about problems before they reach the acute stage. Numerous and varied sunset provisions and legisltive veto provisions have been included in authorizing legislation in the belief that they will stimulate more careful review of programs and policy implementation. Early in the last Congress the leadership of the House public urged all committees to increase their oversight activities.

While these steps are significant and encouraging, there are still other steps I believe should be taken to improve our record on oversight.

The Congress should establish and maintain an information system to track in detail the amount and kind of ovrsight that is being done by the various committees of Congress. The Government Operations Committee already tries to do some of this when it compiles the oversight plans of the other committees. I believe Mr. Brooks touched on this activity when he testified before this subcommittee. This role of collecting, compiling, and publishing information can and should be strengthened.

The leadership could also help the oversight process by strictly adhering to announced floor schedules. Days that the House begins at noon or 3 p.m. are important days for oversight activities. Bringing the House into session at 10 a.m. on these days—particularly under the 5-minute rule—undermines the ability of the committees to conduct complete and substantive hearings.

The House should also consider requiring each standing committee of the House—with the exception of the Appropriations, Budget, Rules, and Standards of Official Conduct Committees—to have a Subcommittee on Oversight.

These actions, when combined with steps already taken, constitute an effective means of improving our ability to conduct oversight hearings. Until they are given the opportunity to work, it is difficult to determine what additional steps we should take.

It may be necessary to alter the process by which oversight is conducted. The proposals currently before the subcommittee all share a common theme: they would in varying degrees significantly change the process by which oversight is conducted. H.R. 2 and H.R. 58 would establish exacting procedures requiring the House to establish a comprehensive oversight agenda to oversee the entire Federal Government within a specified period of time. House Resolution 100 and House Resolution 218 are less comprehensive. House Resolution 100 would significantly expand the role of the Government Operations Committee in coordinating the oversight activities of other committees. House Resolution 218 would set aside a specific time in which oversight would be conducted free from interference from legislative activities.

As the subcommittee evaluates these proposals in particular, it should bear in mind that significant changes in the oversight process carry important implications for the operations of Congress. If not organized effectively, a new formalized oversight process could make the conduct of oversight more difficult, and less productive than it already is. We could end up entwining ourselves in procedural redtape or engaging in a complex, time-consuming and resource-exhausting process simply for the sake of the process.

With this observation in mind, it might be helpful to suggest several specific guidelines with which to evaluate any of the various formal oversight or sunset processes that might be adopted.

First, oversight committees, and subcommittees, should continue to be responsible for setting their own oversight agendas at any time.

Second, oversight committees, and subcommittees, should continue to be given free reign in determining how their oversight will be conducted.

Third, because of constraints of time and staff, it should always be recognized that the Congress will continue to be limited as to how much oversight it can do. A more formalized oversight process should not make unrealistic demands of these two resources.

Fourth, informal coordination of the oversight process already exists as subcommittees and Members have developed recognized expertise in various subject areas. A more formalized oversight process should build on this expertise.

Fifth, no system of oversight can encompass the whole of Government. Any system of oversight must choose targets for oversight carefully and the oversight itself must be conducted in such a way as to have maximum impact on the managers of Government programs.

What this all boils down to is that there are compelling factors that shape and constrain the amount and kind of oversight that can be done and the methods by which it is done. Any formalized oversight process must take these factors into account or suffer serious liabilities that could have the effect of lessening the Congress' oversight capabilities.

Oversight is, as I stated at the beginning, a basic responsibility we have, no less important than our legislative responsibility. Any changes in the process of oversight must have the effect of encouraging more and better oversight, and encouraging less duplication of activities.

Mr. LONG. Thank you for your statement for the record and for your very enlightening remarks.

The subcommittee stands adjourned.

[Whereupon, at 12:35 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

CONGRESSIONAL OVERSIGHT OF FEDERAL PROGRAMS

TUESDAY, NOVEMBER 17, 1981

House of Representatives,
Subcommittee on the Legislative Process,
Committee on Rules,
Washington, D.C.

The subcommittee met, pursuant to notice, at 3 p.m., in room H-313, the Capitol, Hon. Gillis W. Long (chairman of the subcommittee) presiding.

Present: Representatives Long and Derrick.

Mr. Long. The subcommittee will come to order.

We are fortunate today to have witnesses who are particularly well versed in their States' experiences with sunset, biennial budgeting, and other oversight measures.

I am looking forward particularly to hearing your views on sunset, Bill, because of your strong background in the State legislature.

Connecticut passed a sunset law in 1977. Prior to that time, you were speaker of the Connecticut House of Representatives and later, minority leader of that body. You must have been actively immersed in both consideration of sunset legislation and its aftermath—when you served as State Commissioner of the Department of Aging.

You can probably fill us in on how the law has been working, and the pros and cons of it.

STATEMENT OF HON. WILLIAM R. RATCHFORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. Ratchford. First of all, I have a detailed statement which I will submit for the record.

I propose to summarize and respond to questions, if that is all right.

Mr. Long. Your statement will be made part of the record and you may proceed.

Mr. Ratchford. Far too often we lose sight of the importance of the process as it impacts legislation itself. We get involved with a heavy schedule here, redistricting back home, something familiar to you, and get involved with our day-to-day lives and lose sight of how important it is to have a procedure that produces a good work product.

What you look at today is not in the vein of the glamorous, but it is in the vein of the essential and it is critical to the institution.

Connecticut, for a number of years, has attempted to improve its process.

There are other members here. One of the first things we did in Connecticut is to set up a Bipartisan Regulation Review Committee. That committee functions both in the area of oversight and plays a definite role which I will later describe in sunset.

In the area of oversight, when the Connecticut General Assembly is not sitting, every major substantive regulation comes to that committee on regulation review and it must be approved before it can become law, so we write the legislature into the process completely and do not give to any administrative body the power to promulgate substantive regulations without the imprint and approval of the legislature, number one.

Number two, the tie to sunset is as follows:

As you pointed out in your opening remarks, Connecticut passed in 1977 a review of its entire structure. It took 225 agencies, commissions and boards and brought them down to some 20-odd super agencies. Within that framework there are divisions, obviously.

These divisions by statute are reviewed regularly in a sunset process. That process is as follows:

Every year the Regulation Review Committee, which I described, nonpartisan, a Democratic and a Republican chairman, identify 20 areas that they wish to examine under the sunset process.

That inventory, once approved, is then referred to two standing committees, and those committees make recommendations to the legislature itself.

Does it work? There were those who thought the theory would be fine but in practice it would not work.

I am able to report that out of that process Connecticut has been able to eliminate a number of commissions, agencies and boards.

Is there a fight? There is a fight every time, whether it relates to optometrists, ophthalmologists, or over whether or not there should be a barbering commission, or whether it relates to other professional boards that are there in State statute.

Obviously, every time a recommendation is submitted that an agency be sunsetted, there is a fight at the committee level, and then in the legislature itself, but starting with the statute, going through a bipartisan committee, coming through the regular legislative process, and being voted upon by the assembly itself, the work product is a strong one, one that has been debated in the sunset, if you will, and it is one that has resulted in the elimination of agencies that ought to be eliminated, so I would commend it to you.

Finally, involved in your proposed statute, I am a cosponsor, the necessity of inventorying tax expenditures and program impact.

As a relatively new Member of Congress, I look around and see tax credits in every arena and look around and know that the impact is seldom examined.

How appropriate it would be, whether it is Education and Labor, on which I serve, looking at the impact of our student loan programs, for example, as they impact the revenue side of Federal Government, or the Ways and Means Committee itself, to look at those credits to see where we have been, where we are, and where we are going. All of those are efforts, again, that probably will not produce headlines in the major papers of the country.

But if we move in this direction, the emphasis on oversight is appropriate, and the need of getting a better handle on spending is necessary, and to do that we need an effective process, and that process, I think, starts with the Rules Committee, requires regulation review, requires legislative veto, but most appropriately, in line with what we are discussing today, there must be some form of sunset.

Once an agency is initiated, whether it is at the parish, county, town, or city level, whether it is at the State jurisdiction or the Federal Government, when put in place seldom goes out of business.

Unless we put in a time mechanism, unless we put in a mechanism for oversight, it isn't going to happen, so the work that you initiate today, in the long run, I think, can make the mechanism more effective, can make the oversight more meaningful and, in the long run, clearly save the taxpayer.

On that note, I will pause and be happy to respond to questions.

[Mr. Ratchford's prepared statement follows:]

PREPARED STATEMENT OF HON. WILLIAM R. RATCHFORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. Chairman, it is a great honor to appear before your subcommittee today in order to share my thoughts with you on various proposals under consideration to improve legislative oversight of Federal programs.

In our growing service-based economy, scores of new Government agencies, programs and regulations have been established. At the same time, however, I believe it is fair to say that the American public has become disenchanted with the ability of the Federal Government to meet their basic needs in a responsive manner that recognizes the serious fiscal constraints that confront us. I applaud your efforts, Mr. Chairman, to develop the mechanisms necessary to assure the public that Federal programs will be accountable to the U.S. Congress and perform their functions in the most cost-effective manner possible.

Although the Congress possesses certain legislative oversight capabilities by statute, its performance to date in curtailing the almost unrestrained growth of Government has been miserable. I am heartened by efforts thus far in the session by committee chairmen to engage in active oversight of existing Federal programs. I am afraid, however, that the administration has taken the initiative in consolidating certain governmental functions, curtailing or eliminating others. I would suggest that the primary consideration in virtually every case though has been budgetary considerations, rather than that relative value of a particular program. Unfortunately, it has been those programs with politically weak or fragmented constituencies that have fallen prey to the administration's budget axe. Perhaps the most potent congressional mandate to assume critical oversight of all Federal programs exists in the budget process that guides us, yet even that process has been effectively circumvented by the hasty work of overzealous administration budget-makers. At its best, even the congressional budget process is vulnerable to overt political pressures from those constituencies that are best able to organize and lobby Members on behalf of their respective programs.

I submit that there is a better method to achieve the increased Government accountability and economy that the public demands. The Congress has provided itself with an example of how efforts to periodically review certain Federal initiatives can be successful. the Federal Advisory Committee Act of 1972 contains "sunset" provisions that in effect terminate Federal advisory committees after a 2-year period unless a comprehensive review is performed and the committee is reestablished.

The States, Mr. Chairman, have also provided us with an example of how this "sunset process" can be effective on an even larger scale. I believe that more than 35 States now have enacted "sunset" laws, and a cursory review of their experiences would indicate overwhelming success in most cases in streamlining State government.

My 12 years of experience as a Member and former Speaker of the House in the Connecticut General Assembly have strongly reinforced my commitment to the concept of legislative oversight. During my tenure in the Connecticut State Legislature, I worked for passage of the Administrative Procedures Act which established a bipartisan committee of legislators to review proposed regulations, and to approve those deemed consistent with the enabling legislation. Then in 1977, the Connecticut Legislature enacted a new program providing for the periodic review of many State programs.

The Connecticut "sunset" example warrants this subcommittee's careful examination for it represents a more limited and I believe realistic approach to legislative oversight. While over 70 "sunset" bills have been introduced in the 97th Congress, and there has long been significant support for such initiatives, one of the principal concerns of the doubters to date has been the question of feasibility. I am concerned not only that we pass meaningful "sunset" legislation this Congress, but that it reflect these considerations of feasibility. We must be careful not to so overload the capabilities of the House, as well as the Federal agencies, that the process becomes entirely unworkable. That is not our charge.

It was these very considerations that caused the Connecticut Legislature to adopt a "sunset review" program that recognized its own institutional limits and that will ensure effective oversight. Having proceeded in this fashion, national groups such as Common Cause have recognized the Connecticut process as one of the most effective in the Nation.

It is important to note that the larger state agencies have not been made the subject of this "sunset review" process in Connecticut for fear that this would pose too great a burden on a part-time legislature. Beginning in 1979, however, the legislature began its annual review of some State agencies, commissions, and boards. If upon a thorough review of the functions of these subjects it is determined that it is in the best interest of the people of Connecticut that the agency, commission or board be reestablished, then it would be granted 5 more years of life.

During the summer and fall when the legislature is out of session, the Legislative Program Review and Investigations Committee does an initial review of the 20 subjects identified for review that year. With the luxury of time and sufficient professional staff to perform its responsibilities, this committee then submits its recommendations to two partisan legislative committees for review. It is at that stage, as one might imagine, that some of the greatest struggles between interest groups have been waged like those between barbers and hairdressers, and ophthomologists and opticians. Such groups go to great lengths to guard their turf as provided in antiquated State statutes.

What was discovered most often were restrictive business practices that for example limited dentists to two practices and barbers to two shops. Hairdressers were remarkably subjected to more than six liscensure procedures, and numerous other small business groups were either protected under existing statute or forced to deal with extensive regulatory requirements. The irony of the Connecticut experience is that the effect of "sunset" has been deregulating. During the first years' review some three or four State boards or commissions were terminated, and many consolidations were effected.

The experience of Connecticut and countless other States is one of great success, and one certainly worthy of adaptation at the Federal level. I was pleased again this session, Mr. Chairman, to be an early co-sponsor of your Sunset Review Act of 1981. The approach embodied in your bill reflects a sense of what can realistically be achieved by the Congress in light of certain political and institutional constraints.

Perhaps the most overlooked yet most critical element of your bill is that which calls upon the rules and House Administration Committees to jointly inventory all Federal programs and tax expenditures and submit a comprehensive report to each standing committee of the House that has jurisdiction over these programs. The committees of the House are than called upon to establish their own agenda by a designated date for the review of all Federal programs under the jurisdictions of each. The guidlines for development of these agendas and appropriate timetables for review are sufficiently detailed so as to ensure intelligent and timely review.

I am particularly pleased by provisions of your bill that provide for review of tax expenditures as well as other Federal programs. In 1980, the Congressional Budget Office determined that there were some 92 provisions that could be considered as tax expenditures ranging from special exclusions, exemptions or deductions from gross income, or special tax credits, preferential rates, or deferrals of liability. In that these tax expenditures account for some $200 billion in lost revenues each year, it is critical that the Congress have an oppoortunity on a periodic basis to assess their relative value in achieving stated policy goals. The Economic Recovery Tax

Act of 1981, with all its sweeteners for certain interest groups, certainly deserves careful review as its effects become known.

Coupled with several other legislative initiatives of the 97th Congress, I feel confident that we can send a message to the American people that Congress fully intends to check the often unecessary expansion of Federal program and the regulatory burden that suffocates many small businesses, as well as State and local governments. By creating such review mechanisms, we can be certain that the Federal system responds to the basic health, safety, and general welfare needs of the American people while not undermining the very foundation of our democratic society—the ability of the legislative branch to insure accountability and economy in Federal programs. Thank you.

Mr. LONG. Mr. Ratchford, because of the similarity of the experiences that all three of our witnesses have had, if none of you objects, I would like to hear Mr. Tauke and then Mr. Eckhart, and perhaps have a roundtable discussion and save everybody some time.

Mr. RATCHFORD. Be happy to do that.

Mr. LONG. Mr. Tauke, come on in.

Stay there, Bill, if you would, and we will bring up three chairs.

Mr. Tauke, you are another of our witnesses today who has a background in the State legislature, for you came to Congress from the Iowa House of Representatives. Perhaps later you might care to address informally some of the approaches Iowa has adopted—like biennial budgeting—to facilitate the legislative process.

I know that the issue you want to address today is improving congressional oversight. Your experiences on the Energy and Commerce Committee will prove instructive to us.

Your written statement will be made a part of the record.

Please proceed as you wish.

STATEMENT OF HON. THOMAS J. TAUKE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. TAUKE. Thank you very much. I appreciate the opportunity to submit my statement.

I will make a few general comments about my observations here in Congress, and relate those, as Bill has, to some of the activities that we had in the Iowa Legislature.

We don't need to reiterate the importance of having oversight. I think virtually all of us recognize the importance of that.

Historically, Congress has made a number of attempts to try to improve our oversight capability with mixed results. It occurs to me that part of the reason that we have mixed results relates to the structure of the body. For example, the jurisdictional problems are very serious, and they have a very negative impact on the ability of Congress to have effective oversight.

The Energy and Commerce Committee, on which I serve, for example, shares a responsibility for energy programs with a number of other committees. Consequently, when it comes to oversight it is very difficult when we are overseeing the activities of the Department of Energy to know whether it is our responsibility or someone else's. Because we oversee only a portion of the activities of the Department it is very difficult for our committee or any of the others with responsibility to get a handle on the overall direction of that Department. I think that that is a major complicating factor.

I think also that we have a problem because we do not have a good system of regulatory review. In the Iowa Legislature, where I served, we had a much better system, in my judgment, of regulatory review.

We had a system in the Iowa Legislature where we had one committee responsible for reviewing all regulations.

I would suggest that while that is probably workable at the State level, because of the lack of complexity in comparison to the Federal level, such a plan is probably not workable as an oversight technique here in Congress.

It seems to me that if we solve the jurisdictional problem and had committees that were more closely correlated with the departments, then it would be possible to have within each committee a subcommittee responsible for oversight of not only the activities of the department, but also the regulations that are promulgated by that department. That would provide for a subcommittee with intimate knowledge of the intent of Congress in the formulation of legislation with the ability to review rules as they come forth.

I would like to close by saying that in the Iowa State Legislature, when I served there, we did adopt oversight agendas at the beginning of each general assembly.

We operated on a 2-year system, and at the beginning of the biennium we would adopt an oversight agenda in the committee.

It then served as a guideline for us in our work during the remaining term of that general assembly.

It proved to be helpful for providing direction for the full committee. It did not necessarily mean that we were locked in. We still had the flexibility to move to accommodate certain situations that arose during the course of the year.

It did allow us to have some kind of measuring stick to go back and judge our activities by the time the 2-year general assembly was over. In that sense, I think, it was very helpful to us in more effectively reviewing the activities and the policies that were promulgated by the various departments at the State level.

[Mr. Tauke's prepared statement follows:]

PREPARED STATEMENT OF HON. THOMAS J. TAUKE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to come before you today to discuss the matter of oversight of the executive agencies and two issues—overlapping committee jurisdictions and committee scheduling conflicts—that contribute to the House's inability to develop and execute a comprehensive oversight plan.

These hearings are a reflection of the subcommittee's concern for the institutional procedures of the House and, following the efforts by Chairman Bolling and Representatives Obey and Patterson, continue the dialog and debate needed to shape a more effective and more responsible legislature. For this I am grateful, and I am sure my colleagues share that sentiment.

Mr. Chairman, the Legislative Reorganization Act of 1946 directed that the Congress should be continuously watchful of the multitude of programs and agencies it has created. Congress called for regular committee review of the application, administration, execution and effectiveness of the laws that lie within each committee's jurisdiction.

The statutory mandate set a difficult, yet attainable goal for committees to meet. But over the years our colleagues have expressed concern over the failure of Congress to better monitor the growth of the executive departments and agencies. The testimony before the 1973-74 Select Committee on Committees, led by the distinguished chairman of the Rules Committee, portrayed the dissatisfaction of virtually every legislator who testified on the conduct of committee oversight. For example, several legislators declared that:

"There is not sufficient oversight, and I doubt if there is sufficient oversight in any committee of the Congress."

"I have never felt that any committee was doing an adequate job on oversight, and I felt very strongly our committee was not doing a good job on oversight through the years."

"With all our efforts, therefore, what I am saying is that the Congress is just barely making a scratch on the oversight of the executive branch in one year."

The adoption in 1975 of a rule to require that committees identify their anticipated oversight priorities for each new Congress was a step in the right direction, but the committees have been reluctant to commit themselves to a specific agenda and have emphasized their intentions to remain flexible in their oversight plans.

The 1976-77 Commission on Administrative Review, chaired by Representative Obey, provided further evidence that while most of us believe in the importance of oversight, we have difficulty translating these intentions into action. A Commission survey found that more than half of the Members surveyed said that keeping track of the way government agencies administered the laws was very important, and almost one third believed that, after the legislative function, oversight was the most important role of the House. But more than half of the respondents admitted that they spent little or no time on oversight activities.

Two years later the 1979-80 Select Committee on Committees, chaired by Representative Patterson, asked Members in a mail survey if they believed that the House committees were doing an adequate job on oversight. The responses were 29 yes, 139 no, and 16 undecided. The Patterson Committee concluded in its report that "Greater attention needs to be paid to effectiveness of oversight, and to the structures and techniques required to assure needed agency accountability."

And this recommendation came, Mr. Chairman, in the midst of the 96th Congress, the Congress we dubbed the "oversight Congress."

Today, economic conditions implore us to cast an ever-watchful eye on agency operations. We need to know, and we need the time and the opportunity to find out, what is working and what is not working; where we can cut and where we cannot. I believe with the President that there are billions of dollars that are wasted in programs that serve none but the bureaucrats who run them. But I also believe that there are programs where there is little fat to be found and much more harm to be done in wholesale cuts. The goal of a comprehensive oversight plan is to help us locate where we need to tighten up and where we need to legitimately provide more help.

Under the statutory mandates of the 1946 and 1970 Legislative Reorganization Acts and 1974 Budget Act and the incorporation of specific oversight language in the House Rules, we have made some strides in developing a systematic plan for oversight. We have increased our casework and investigative staffs and boosted the oversight responsibilities of the Congressional support agencies such as CRS, GAO, and OTA. In addition, we've specified more direct oversight hearings and investigation.

But political and institutional problems continue to confound us. Comprehensive program review is time-consuming; oversight is often seen as boring and unglamorous. It has little payoff in terms of voter attraction; there seems to be more publicity and mileage in writing new legislation than in reviewing old legislation. Speaker O'Neill once observed that Members like to "create and legislate," adding that "we have shied away from both the word and deed of oversight."

But beyond these general difficulties we face in our efforts to get a handle on how the agencies spend taxpayers' dollars, two institutional issues—overlapping committee jurisdictions and scheduling conflicts—have long bedeviled our committee system in general and our ability to carry out effective oversight.

With respect to jurisdictional problems, let me refer to the problems of oversight of the Department of Energy from my vantage point on the Energy and Commerce Committee.

Mr. Chairman, the component parts of our energy policy are scattered around the House like junebugs in an Iowa cornfield. The 1979 Patterson Committee observed that:

"No other issue has . . . revealed the deficiencies of House committee jurisdictional fragmentation as has energy. As public demand for action on energy policy has increased, so have the efforts of the House committees to gain involvement in energy matters. So pervasive has concern with energy policy become that virtually no House committee does not now possess legislative, fiscal, or oversight responsibility for some aspect of national energy policy."

The Committee on Energy and Commerce now has broad jurisdictional authority for energy policy. But nearly one-third of the House membership will vie for energy jurisdiction by their own committees and subcommittees.

This dispersion of authority has a very negative impact on oversight efforts. It results in a draining of staff resources, competition for Congressional and public attention, and a general preoccupation with resolving the questions of who gets what piece of the pie and when do they get it.

I believe that Congress would better fulfill its oversight responsibility if all the legislative and oversight activities relating to programs administered by the Department of Energy were placed in a single committee. This would resolve the problems inherent in the referral of the annual DOE authorization bill to three different committees (Science and Technology, Interior and Insular Affairs, and Energy and Commerce) and would bring with it clarified responsibility for DOE programs.

Concern has been expressed about a plan which ties the jurisdiction of individual committees more closely to the activities of departments of the executive branch because of the possibility that, rather than operating as the overseer of the agency, the committee would become susceptible to influences to become the agency's advocate. There is also the concern that, when agency responsibilities were changed, Congress would have to act to change the committee's jurisdiction.

These are valid concerns, Mr. Chairman, but I believe they are worth the risk when weighed against our current situation of policy dispersion, confusion, and inertia.

The policy of conflicting meeting schedules goes hand in glove with jurisdictional problems in confounding the oversight process. Again, this is an old issue in the House. The Obey Commission found when they asked Members to make recommendations that would improve operations in the House that half of the Members responding suggested improving the scheduling of House and committee business.

The 1979 Patterson Committee observed that:

"The chronic problem of numerous committee scheduling conflicts is one which almost every Member faces daily. The proliferation of committee meetings and assignments creates frequent meeting conflicts for legislators. There is also frequently a lack of adequate coordination between full committee and subcommittee meetings. Consequently, problems in planning and scheduling of committee and subcommittee business have greatly increased. The inevitable result is that a large number of subcommittees of the same committee, many with overlapping membership, often have meeting conflicts; that is, two or more meetings scheduled at the same time."

The Patterson Committee made several specific recommendations, but only limited House action has been taken:

1. Establish a series of designated meeting days for committees (note: this was defeated in the Rules Committee);
2. Prohibit subcommittees of a particular committee which have an overlap of membership from meeting at identical times (note: some committees have adopted this recommendation);
3. Review House Rule XI, clause 2(i) which restricts committees from meeting while the House is considering amendments under the five minute rule; and
4. Require committees to utilize the Committee Meeting Information System (COMIS) to assist in minimizing scheduling conflicts (note: a recommendation which is currently in effect).

The adoption of these options would allow Members to focus their attention more clearly on all facets of our job and would certainly enhance our abilty to carry out our oversight obligations.

Finally, Mr. Chairman, I want to endorse the proposal of the distinguished minority leader of this Subcommittee, Mr. Lott. H. Res. 100 has been thoroughly discussed in the course of these hearings, and I would only add that the measure, especially the provision requiring the adoption of oversight agendas at the beginning of each Congress and House adoption of a consolidated oversight agenda resolution, would substantially improve the efficiency of House operations.

I believe Representative Lott's proposal is timely, practical, and would enjoy strong bi-partisan support on the floor of the House. More importantly, it would send a clear message to the American people that the Congress is capable of resolving its institutional problems and that as it strives to serve the people, it is deserving of the public trust.

Mr. LONG. Thank you, Mr. Tauke. Dennis, the experience that you had in the Ohio House of Representatives can certainly be helpful to us.

Before you came to Congress—where you have distinguished yourself as freshman whip—you served a number of years in the Ohio House of Representatives. I understand Ohio has no sunset legislation per se, but that you were instrumental in passing energy credits and in sunsetting these.

I'm told you will have no prepared testimony for the record, but we welcome your reflections and comments on the State experience with legislative oversight and sunset.

STATEMENT OF HON. DENNIS E. ECKART, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. ECKART. Thank you very much, Mr. Chairman.

In my relatively short time in Government office, I have quickly come to the conclusion that there is nothing more permanent than a temporary Government program.

During my 6 months in the Ohio State Legislature, we initiated a form of agency rule review, as well as sunset, which served well from a variety of perspectives.

First, in the area of agency rule review, what we found in Ohio is that the legislature was gradually being taken right out of the process. We could enact legislation, empower State agencies to administer it, and promulgate rules; but, when there was a question about what had been promulgated, it was decided by the courts.

The legislature found itself in the position of having to go in under an amicus brief with the attorney general to explain what our intent was, because we had no vehicle to get a handle on the rulemaking authority of the agencies.

To address this, what we did simply was to create a joint committee which had veto authority over the promulgation of any new rules of the agencies, boards and commissions. After taking an inventory, we found out that there were a number of them that took us to a second position of trying to streamline some of those boards and allowed this joint committee to have veto authority.

In a State which has a $13 billion general budget and almost a full-time State legislature, we found that this process did in fact add to our legislative workload. However, we found that the threat of those agencies being exposed to legislative oversight of their rules resulted in a dramatic decline in the number of challenges of the rules by the courts and it resulted in greater cooperation between administration and legislative intent. Therefore, we found agencies doing less of, let me say, "taking off on their own," contrary to what may have been the considerations of the Ohio General Assembly when legislation was enacted.

I also found that once we adopted a rule, we found the agencies to be a bit more responsive to the elected public officials. I have found here that it doesn't really matter when a person joins the Federal Government. Whether it was under Presidents Kennedy, Ford, or Carter, once they are here, they become insulated and isolated. They are not responsive to elected policymakers, and as a result of that, because we have no vehicle over them, they pretty much take a devil-may-care attitude about us.

In Ohio, before agency rule review, the situation was the same. Once an agency's budget was passed I noticed a decided lack of interest in returning phone calls, constituent requests, as well as being responsive to areas of interest that we in the legislature thought they ought to pursue.

Coupled to agency rule review, which has been very effective, we added a periodic review or inventory on a number of our boards, agencies and commissions. Like Mr. Ratchford, we found a barbers board, a betting board and a junkyard board and the list went on and on.

Mr. RATCHFORD. We had a well-drilling board.

Mr. ECKART. In an inventory of sunset, we were able to weed out many of those boards, and as our Governor is fond of saying, of "Commissions" from our roster.

I cannot point to hundreds of millions of dollars of saving, but by virtue of streamlining the books and making the Ohio State government directory a little smaller at printing time, we were effective.

Sunset was very effective not only for programs, but for agencies and boards that we created. It forced back the actual authorizing statute for the creation of a board or an agency or a commission, not only the programs that were delegated to them.

Mr. Chairman, I can only say you would be surprised how responsive a commissioner can be when that legislation which creates him automatically expires upon the affirmative action, I mean, with no action of the State legislature. If we did nothing they sunsetted, so they were forced to have affirmative action to continue their existence.

I found that this was very helpful in making them a little less insulated, a little less isolated, and having them understand that while we may have created them to do one, two and three, and they are now off doing four, five and six, we were able to get a handle on them, because they had to come in.

We did not have a specific time frame for each board or each program. Generally, we were reviewing them every 4 years. There were some time frames where there were less. At the last session, on several programs we sunsetted them at the end of 2 years, both the authorization, the appropriation and the language that created them.

Mr. Chairman, the only thing that I would add to what was said before is, and this might not be on the subject matter, but the proliferation of subcommittees and the jurisdictional problems that we all experience, perhaps it is that as a freshman on this panel that I am exasperated with the 93 subcommittees that have jurisdiction.

I am not calling necessarily for major staff reforms.

I suppose what I am calling for is a little less in the proliferation of the number of subcommittees so that we can all do our jobs on our subcommittees a little better and not be running around trying to attend to, what are we allowed, five, and in some instances you get on some ad hoc subcommittees, and you can find yourself not being able to devote the attention to oversight that you would like.

There are a number of objections to congressional veto and to sunset. I have taken the position very simply, Mr. Chairman, that if it is a good program doing what we intended it to do, that it will be able to withstand that close scrutiny.

I also reject the notion that legislative veto won't work or will damage regulatory reforms. Those are rather spurious arguments.

I don't think there will be increased delays or uncertainties in the regulatory process. If anything, the threat of a congressional veto, as Ohio's legislative veto proved, will be very effective in formulation of rules that are meaningful and responsive to begin with, thus avoiding costly delays which created an aura of uncertainty in the entire process.

I want to thank you, Mr. Chairman, for conducting this hearing and allowing me to testify.

I think we have to come to grips with some of these programs that just seem to develop a life of their own.

Mr. LONG. One question and then I will make a general comment.

As I understood it, Ohio does not have a sunset law. How do you go about this? Do you do it on an ad hoc basis?

Mr. ECKART. It was on an ad hoc basis. There was a group of us in the legislature who, any time a bill went to the floor that created anything, the same amendment was offered time and time again. It got to the point, Mr. Chairman, that when a certain person would stand up on a given bill they already knew what the amendment was.

We reached the point where the leadership accepted those amendments with regularity and it is now, as we are just starting to go through the sunsetting, it appears to work. Mr. Chairman, I should point out that we sunsetted some very, very popular programs.

All States do have a serious problem with child abuse, and we formed a commission, but we gave them 1½ year lifetime, and we said get your report in and get your recommendations in because those 1½ year studies turn out to be 3½ year studies, and the recommendations somehow never quite follow and get lost.

Mr. LONG. That brings me to the comment I wanted to make. I think all three of you are probably familiar with the scars that some of us bear as a result of fights over jurisdictional turf, which goes to the basic problem of how many subcommittees you serve on.

It is all intertwined to such a degree you can't separate one from the other.

By the adoption of only part of the recommendations made at the time of the Bolling Commission, we ended up doing more harm than good.

Had we gone all the way, streamlining and exercizing more control over subcommittee assignments, it would have made a difference.

Mr. RATCHFORD. It is much more complex here but that is frequently used as a rationalization not to do it.

Connecticut had the advantage of a Governor who was extremely popular, Ella Grasso, and she was heavy into it. She was into the whole issue of reform.

One of her top priorities was reform of State government, and she initiated a reorganization of all the State government, and they took 225 agencies, commissions, boards, and reduced them down to about 20 agencies.

That does not eliminate the function and you still have those subsidiary boards, but in the reorganization statute that passed in 1977, sunset was part of it, so you had the major agencies with a time certain for reauthorization and a periodic review of functions.

That function review weeded out some of the things that I referred to, a well drillers board for example. We had a classic fight last year over whether there would continue to be a State licensing board for dentists. On the one hand they perform a professional function and on the other hand they become a clique for those in the profession and where the function sorts out from the profession frequently is difficult to distinguish.

In the long run, however, we have been better served by having the sunset in there. It makes the commissioner of the most powerful State agency aware of the fact that there is a time certain in there.

I have sat on that side of the table as the commissioner of an agency. If you know you have got a deadline it is going to make you much more responsive to the legislature and it, therefore, develops a greater sensitivity of the importance of the legislative process and in the long run makes that agency more responsive.

The greatest difficulty I had as a commissioner after 12 years in the legislature was that some of the better people I had in that department, and it was small, felt it was not the Connecticut Department on Aging, it was their department on aging, and the ideas were their ideas, not public ideas; and if the public disagreed, the public stood in the way, they were an impediment, that type of thing, and you know and I know in the long run that produces a government that is not responsive and alienates those that are paying the taxes for that particular department.

In setting up the sunsetting, you are tightening the accountability and involving the legislature in the process and giving a better accountability to the public.

Mr. LONG. To set the stage for my next question, I understand Iowa passed a sunset law and the Governor vetoed it.

Mr. TAUKE. True.

Mr. LONG. Do you do anything on an ad hoc basis?

Mr. TAUKE. We added sunset riders to a number of the bills that passed. We focused primarily on programs rather than agencies or bureaus.

There were a number of us who were very supportive of sunset who did not support the legislation that passed in the Iowa Legislature at the time it passed for a variety of reasons.

It seems to me that sunset alone adopted in this Congress is not going to be very helpful, because it will have the same problems that reauthorization does for programs. That is, because of the other problems that we have in the structure and in the system we are not going to—even with sunset—have proper review of the agencies and bureaus. I would hope that perhaps there would be the side benefit of getting the increased responsiveness that a number of us have noted when agencies do have a lifespan. But I suspect that unless that is followed up with some ability on the part of the committees of Congress to actually oversee and spend some time working with the commissions and agencies, that the positive impact from sunset may not be felt.

Mr. LONG. No question; but unless we get the time to be able to do it, it is not going to work very well.

I think if the last election was a mandate on anything—and I am not sure that it was—but if it was a mandate on anything, it derived from the fact that the American people do not think that the American Government is working very well. It is with sound justification that they have that feeling.

There are tremendous difficulties in trying to straighten this out. I don't think they have developed a computer yet that can handle all the intricacies that come into play when you start moving legislative turf around.

It cuts all the way across the board. We have got to center on, today at least, the processes themselves rather than the jurisdictional end.

Let me benefit, and the committee record as well from the combined experience that you all have had in your own State legislatures and at the national congressional level.

It seems to me, from the hearings that we have conducted, most of the sunset laws in the States deal with the termination of boards and agencies, and don't apply to the big ticket items, such as the ones we deal with here. We don't really have many of those boards, and we don't have many of those commissions.

We probably have a lot more of them than we think, though if we took an inventory.

But from the standpoint of substantive change in the whole process, can sunset and related activities, such as you participated in in your legislatures, apply here in this institution, leaving aside the considerations of the demand upon people's time?

Assuming we had the time, is the problem so basically different in sunsetting a board of cosmetology in the State of Connecticut from having a go at the Department of Energy? Is a law that would work in the one case absolutely meaningless when it comes to the other? Give us the benefit of your experiences and thinking on this.

Mr. RATCHFORD. Connecticut is a bit unique in that we started with reorganization, so it puts you in a different position because you have done a lot of that to begin with.

I think in clearing out the thicket you then make it easier to deal with the trees in the forest, and in dealing with the agencies instead of having 225 coming to the Appropriations Committee or the tax committee, which is called the Finance Committee, you are dealing with a smaller number.

No. 2, you are proving to the bureaucrat that you are serious. I will never forget the reaction that the Connecticut Legislature got from some of the bureaucrats who were supportive of, No. 1, reorganization and, No. 2, sunset, when it came their turn, it is always, "Well, I didn't think you meant us."

They don't think you are talking about them, but rather talking about cleaning up the process. I cannot say we have tackled the big ticket item.

If we don't do that, well, I am reminded of a long time colorful member of your legislature by the name of Sam Rayburn. I think of your tax writing committee, and he has a way of talking about somewhere down the road, referring to accountability of how we set up, set up, set up, and then it comes time to be responsible for the budget or look at the revenue impact of those agencies that we are setting up and somewhere down the road if we don't tackle it in Congress it is going to tackle us.

The committee structure here, even if you restrict yourself to your number of committees and subcommittees, you spend at least your mornings on a treadmill going from one to the next and probably not functioning along the way.

Mr. LONG. Tied into that very intricately is the whole matter of scheduling, which is a major aspect of the problem we are looking at.

Mr. ECKART. Getting the whole department in tow is something we found very difficult in the State legislature, so we opted for the various parts of the Department.

The Department of Natural Resources has an Office of Surface Mining, underground mining, and the list goes on and on. Over a fixed period of time we took the various offices and bureaus of the whole Department, thereby picking up their programs under each of the Assistants and Deputy Directors. You are right, you can't bring in the Department of Natural Resources in the State of Ohio and say, well, we are going to review you today. It was so big that we opted for going within each of the departments.

If you look at the Department of Energy and the authorities of the various Under Secretaries, et cetera, you might see a nice organizational chart that would allow us to do that.

However, I believe that sunsetting directly relates to the question of vetoing their rules. That strikes at one of the basic lifeblood elements of an agency, their ability to make law through a rulemaking process and through the Administrative Procedures Act. We have opened that up, but what we realize still is that there is no form for the expression of the public when we write ourselves out by allowing the courts and the agencies to negotiate it. We have really limited the impact we have, even if we could sunset that agency on some sort of given schedule.

The two go hand in hand, and to separate the discussion, while important in terms of our focus, is not really consistent in terms of the overall picture.

Mr. LONG. Applying your experience in the legislature to the situation here, with respect to legislative veto—what would you do if you could make the final decision as to how that could be accomplished in the procedures now in existence in the U.S. Congress?

Mr. ECKART. We had a single joint committee to which proposed new rules were refiled. We then had objection authority, in which case the agency took the rules back and could refile them again, and this could keep going on and on as well as the public hearing process.

This is one of the first times I have ever been asked if I could be king for a day, what would I do if I was here?

There are approximately 7,000 regulations which get promulgated each year. That number has maybe gone up or down in the last year or two, but we are talking about a huge amount. Clearly you would have to direct, with some specificity, committee jurisdiction and then, from my vantage point, allow a consultation process between the committee of substantive jurisdiction and the agencies and departments with which it deals and work the congressional veto or the rule oversight mechanism that way.

Mr. LONG. Before the fact rather than after the fact relationship.

Mr. ECKART. I think that is more healthy, because then you can find, I don't think negotiations is an improper word, that you can bring it into a public forum where you could have some meaningful discussion about what will be the end product of the rule. This is opposed to after the fact which only results in another problem of delay.

As we wrestle with inflation, we know what delaying something does to the cost of a project, the certitude with which it may be completed.

Mr. RATCHFORD. You have to start right in this room.

Mr. LONG. Mr. Moakley is looking at this subject now. We are working together.

Have you had an opportunity to talk to him about this, perhaps talk to his subcommittee about it? He would be very appreciative, because they are struggling with this very problem of what they might recommend with regard to the legislative veto. They have held a good many hearings. I think particularly, Dennis, your experience in the Ohio Legislature would be helpful to him.

I will say a word to him about it, and I wish you would.

Mr. Tauke, do you have any comment with respect to this?

Mr. TAUKE. I think that my experience in the Iowa Legislature may or may not be relevant, but I will tell you my observations.

I have never really been a strong proponent of "sunset" for just the reason that you have mentioned. I have found it very difficult on an across-the-board basis to know what should and should not be sunsetted.

It is easy to sunset programs but very difficult to sunset structures. That was why the proposed law in Iowa was vetoed, and that was why I voted against it.

We had some situations, for example, where you had a civil rights commission or a social services department that would have come before committees of the legislature where they might not have survived. It would not necessarily have been the will of the majority working, but one or two Members of Congress or of a legislature put in a key position can wreak havoc with a very important structure of government.

For example, if we had the Department of Energy or a variety of other things coming before Congress, especially at the wrong time, which can happen with sunset, you could have real chaos and that is what makes sunset difficult.

I suppose my basic concern is the realization of an almost impossible task. I don't think that you can separate the oversight responsibility from the structure that you are working with. I really cannot conceive of what you can do without some changes in the structure that set up some kind of relationship between the departments and the committees of Congress and set up some kind of subcommittee of each committee that has some real oversight.

I don't see how you can establish an effective oversight capability without those structural changes with or without sunset.

That is what I suppose the major problem is that you face.

Mr. LONG. We are having an informal discussion with all of the gentlemen, Mr. Derrick. They have all submitted detailed statements for the record.

All three are giving their views on what their experiences were in their State legislatures.

There has been informal discussion. Feel free to participate.

Mr. DERRICK. I regret I was not here to hear your statements. I was detained in the office.

Thank you.

Mr. TAUKE. Let me raise one issue that we had in the Iowa Legislature. At the time we had the sunset bill before us, the first year, the board of regents institutions would have been sunsetted.

Mr. LONG. The State universities?

Mr. TAUKE. It would have been a little difficult to sunset the University of Iowa and Iowa State, but there was a chairman of the Education Committee who was very hostile to the regents institutions, and the State senate was divided 26–24. Therefore, it was easy to play havoc with some very important legislation, and yet we faced the very real prospect, in that kind of a situation, where the chairman of the Education Committee may have tried to bottle up the re-creation of the State universities.

I don't know where that would have left us, and it is that kind of problem you run into when you get to the big ticket items that causes difficulty.

While we were able to make sunset work for some of the commissions and agencies in some of the programs, it is awfully tough to do it on the major departments and agencies.

Mr. ECKART. I would point out that with Iowa on the brink of going to the Rose Bowl, it would stand a much better chance this year.

Mr. RATCHFORD. I am curious as to whether or not you have had the benefit of the thinking of the Members from Colorado who served in their legislature, that State being, well, the first State really to tackle sunset, because we have at least two and possibly three members of that delegation who served in that body.

Mr. LONG. No; I think that is a good suggestion.

Mr. DERRICK. I went out there when I was on the Budget Committee. We were working on the same thing.

It was my observation that they eliminated the barber shop committee and some two or three other minor committees.

I don't know what they have done since then. Maybe you do.

Mr. RATCHFORD. I do not know. I know even on their big agencies, there is a time certain in the agency. Before you came in I mentioned that Connecticut had the unique advantage of having gone through a reorganization before we initiated sunset, so we kind of cleared the way for other sunset, got rid of a lot of the problems before we started looking at them.

Mr. DERRICK. Also, when I looked at the situation in Texas, it was my observation that they had incorporated sunset in the process and went on about their business.

Mr. RATCHFORD. Some things never change.

Mr. TAUKE. At the time that we studied the Colorado situation, it appeared as if they had made minimal progress. I guess I would say, in terms of paring down the size of government through the sunset process, but I thought they also had difficulty in that they had established a rather significant bureaucracy to administer the sunset program.

Mr. **Derrick**. Didn't a woman head it?

Mr. **Long**. I have information relative to Colorado here. Colorado was the first State to have a sunset law.

It applies only to regulatory and licensing agencies. They have restricted it to those and do not include the big ticket items. Their experience has been very interesting. They enacted the law in 1976. In 1977, they amended it to provide that licenses would expire at the end of a windup period if an agency was terminated. Performance audits would be completed by the State auditor, 6 rather than 3 months prior to termination.

Then in 1978 they again modified it to require that the performance audits be completed 1 year prior to termination. They stretched it out again.

In 1981, they modified the law again. This time the cost of the performance audits had been found to be disproportionate. This was the biggest criticism of the law. That was evident from the change in 1977, that they had made. The 1981 version completely removes the requirements for performance audits and provides for evaluations by the Department of Regulatory Agencies.

At the time of this writing, it passed the State legislature. It was not signed by the Governor.

Mr. **Ratchford**. I know Congressman Kogovsek was a leader in that body, and Congressman Kramer served there, and I am not sure about Congresswoman Schroeder.

Mr. **Long**. I think that is a good topic to talk with them about.

Mr. **Tauke**. Mr. Chairman, I do have to excuse myself. I do have another meeting.

Mr. **Long**. Let's talk about whether or not a sunset bill by any other name would smell just as sweet.

Do you really need the threat of automatic termination to do the job that is required? If the object is really improved and more effective oversight, do you need the threat of automatic termination to motivate all of the parties involved, the people in the agencies themselves? You made the point, Dennis, that you need to get response from them, but if the legitimate objective is oversight, do you need the threat of automatic termination?

Mr. **Eckart**. I believe that to be the case. There are some who will be motivated, who are motivated just by the appropriations process, and there are others who take a little more encouragement from time to time.

I chaired a joint House/Senate committee. When we were created I specifically wrote into my own creation statute a sunset.

I can tell you, Mr. Chairman, that the director of my staff lobbied me to extend us because we had so many more things that we could study and do in our beneficent research for mankind. If that did not exist, Mr. Chairman, we could have continued to go on for lots of different reasons in lots of different ways but having signed our own termination, it made it a lot different.

We found that also to be true in the Department of Natural Resources, and we created the Department of Energy during my term in the State legislature, and revamped mental health retardation departments.

We completely reworked our correctional system, and we found then, Mr. Chairman, that in dealing with folks who had been there a lot longer than I had been around, that we needed the ultimate inducement of their realizing that they were not the government but that the agency or the department was the government, and that they needed to be responsible. That gets very confusing from time to time, Mr. Chairman; a person sitting in a job thinks that they are the job and not the task that they are assigned to do.

Mr. RATCHFORD. In doing it you show certain members on the administrative side that the legislative body is serious about the oversight.

Just the fact that this hearing is ongoing and the bills are filed, says to some members of government that things are going to change. Maybe it isn't sunset or program review, maybe not legislative audit, but collectively, all of those, plus hard oversight by the substantive committees and a function of the appropriations process, are critical to keep a handle on government.

Every administration comes to Washington talking about reform in Government. Most leave Washington frustrated about their inability to do so.

Mr. LONG. Well, let's go to another aspect of that same problem, one that causes all of us to throw up our hands in frustration. Dennis, as a freshman Member, perhaps you have a new perspective on this very old problem. What possibilities do you see around here for making more meaningful use of our time?

The general inclination to not want to be in session or cast major votes on Monday and again on Friday, serves as a severe limitation on the length of the workweek. Also, convening the House at 10 o'clock interferes with the ability of committees to perform their functions. The House used to convene at noon.

I am not sure we served any purpose by changing this or waiting until 3 o'clock some days to convene in order to give the committees an opportunity to act.

I am not sure it works. What is your perspective? Bill, I would like yours, also. What do you see as the major scheduling problem?

Mr. ECKART. The certitude of the scheduling, having to wait until Thursday morning to find out if we have votes on Friday or on Wednesday makes it impossible to plan.

This is the complaint I get most as the freshman whip.

Second, I advance this with some trepidation today, but the use of dilatory and useless votes and rollcalls on the floor just to disrupt the activities of the House by running over here, and rollcalls on approving the Journal, Mr. Chairman, I think is——

Mr. LONG. We have three such votes today.

Mr. ECKART. It exasperates all of us, young and old alike, and we can't determine why that is the case except to advance some reason, to disrupt the activities of the House or build up rollcall lists against those who may or may not be here.

If we had a more well-defined schedule of when we will be here, and we will be voting on Wednesday and Thursday, and not to change the schedule is difficult.

I know the troubles of chairmen who have told me: "Gee, we can't get a quorum for our committee if there are not any votes that day." I don't know if you go into public committee records, because then it is impossible when you have five subcommittees and three full committees.

Mr. **Long**. Probably the most effective way of getting the system under control is to start publishing attendance records at subcommittee and committee meetings.

Mr. **Eckart**. Don't give us six committees and four full committees.

Mr. **Long**. If you publish attendance records you are going to build the impetus to remove participation in five or six subcommittees. I don't see any other way possible, from the viewpoint of the 10 years that I have been here.

Nobody is going to give up committees voluntarily. Nobody wants to give up anything once they have got their territory established.

Mr. **Ratchford**. Even if you don't take your full load you are encouraged to do so.

Dennis and I now have the common problem of Education and Labor doing a lot of oversight, appropriate, but yet every single morning they are holding an oversight session, and at the same time when we come back in January for at least 3 to 4 weeks I am on House Administration and hearing committee budgets.

Therefore, I am splitting myself two ways, and I am on the Select Committee on Aging which meets from time to time, but usually major hearings.

It is an impossible task of sorting out three hearings, which to attend.

Mr. **Long**. Bill, if we publish the attendance at the subcommittee hearings and at full committee hearings——

Mr. **Eckart**. And issue roller skates.

Mr. **Long** [continuing]. Would that not serve as the political motivation for you to get yourself out of being on as many subcommittees as you are presently on?

Mr. **Ratchford**. That is one way, but it gets back to the process you talked about to begin with, the Bolling commission report and the attempt there to streamline.

Human nature being as it is, you are going to have to say to the Member, this is it as far as committee assignments as opposed to the other way around, cleanse thyself, that is not going to happen.

Mr. **Long**. Wouldn't the Members impose that discipline upon themselves if they knew their names would be printed for not being present at *x* number of committee or subcommittee meetings?

Mr. **Ratchford**. In my opinion; no.

Mr. **Long**. You don't think so. That is very disheartening.

Mr. **Derrick**. I rather tend to agree with you.

Mr. **Long**. We have tried the affirmative way so damn long, we are absolutely discouraged.

Mr. **Ratchford**. By that I mean you are going to have to publish the record. That is a concession that the system isn't working. If attendance at a subcommittee or committee determines whether or not a person is a good member, then we have got problems.

Mr. DERRICK. I served on Jerry Patterson's Select Committee on Committees which was unable to get any of its recommendations adopted. We tried but we couldn't even get adopted a schedule for the committees to meet on certain days.

There are about some 150-odd subcommittees and full committees.

If you walk around these halls and call every Democrat "Mr. Chairman," you are going to be right most of the time.

Mr. RATCHFORD. Except for the two of us.

Mr. ECKART. Seniority is something you are against until you get some of your own, I am told.

Mr. DERRICK. In 1974, when I first arrived, it was a horrible situation.

Mr. ECKART. It has improved a lot. I would point out to you, and I suppose I have got Butler's viewpoint, having 10 months and 17 days with seniority, if you cut down on the number of subcommittees and full committees, you have a lot less chairmen and a lot less people who have a real piece of the action in terms of leadership. But if the rules are changed uniformly and you only get one committee and that is the way it is, at least it is done evenly.

Mr. LONG. I don't argue that point.

I am saying, how do we arrive at that point? We will not affirmatively impose that discipline upon ourselves. We tried it and we were scarred to such a degree that many of us are frightened at even approaching it any more.

Mr. DERRICK. You are going to have to figure out a way to sneak in the back door and get changes adopted before they realize what is happening. You absolutely are not going to do it.

Mr. LONG. That is the reason I am suggesting the clandestine approach of pressure.

Mr. ECKART. I can only tell you if you are going to publish committee records, you would have to issue roller skates.

Mr. LONG. You would for the first year. Pretty soon they would throw those roller skates out, because their knees are going to get scarred.

As a result, in opinion, you would see a reduction in the number of subcommittees and jobs that people take on when it is impossible for them to spend the amount of time that is required to perform those tasks.

Mr. ECKART. As less members attend committee meetings, that means the decisionmaking power of that committee is concentrated in fewer and fewer people, and then we get down to the thing when a bill gets to the floor, everybody says, well, how did we get into this position?

Mr. LONG. Don't you have more of that now, of people attending fewer committee meetings, than you would have if you cut down on the number?

Wouldn't that eventually work in the other direction?

Mr. ECKART. I believe so.

Mr. LONG. Even getting the number down by vote of the Congress itself would be extremely difficult.

One other thing I know you have studied, because you and I have talked about it.

Perhaps, Dennis, you could share with us your views on biennial budgeting.

What do you all have in Ohio?

Mr. Eckart. We had a biennial budget in the State legislature, and if I charted it, it is getting worse and worse. I don't know whether to attribute that to the general economy in the last several years, which has required much more tinkering and many more supplemental budgets and supplemental appropriations. Just this past week, the State legislature had to enact over a $1 billion tax increase, and they operated on two temporary budgets to get to that point and they probably will have to have additional temporary budgets.

The whole economic projection forecasts we could debate 12 years, and that is what we all rely upon. I believe you are going to see the State of Ohio go from a 2-year budget to a 1-year budget, so we are going in the opposite direction at the State level because of the uncertainty of the economy and because we are growing, the State of Ohio is growing, with a $13 billion general fund budget now.

I think that going to a biennial budget might free up some time to do some other things; but if the budget and appropriations process is the only handle I am going to have to make agencies responsible, I wouldn't want to go to a 2-year budget right now.

Mr. Long. Then we could have a 2-year continuing resolution.

Bill, do you have any views?

Mr. Ratchford. We went from a biennial to an annual. We met 5 months out of 24 when I first started.

I knew when the legislature adjourned because you no longer could get a parking space at the State capitol, because they were taken over by those who worked the agencies.

The Connecticut Legislature now finds, because they still, even though they meet every year, they still cannot stay on top of the appropriations process. They are talking about going back to biennial with annual adjustments, so again it involves how you are going to do your oversight.

If you just go to biennial you are abdicating to the administrative branch, but if you go to it with some review process that is meaningful, then I think that can work.

Mr. Long. Gentlemen, I thank you very kindly.

The following statements were submitted for the record by Hon. Sonny Montgomery, chairman of the Committee on Veterans' Affairs, and Hon. Jamie Whitten, chairman of the Committee on Appropriations. Without objection, they will be inserted at this point.

[The statements referred to, in the form of letters, follow:]

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October 19, 1981

Honorable Gillis Long
Chairman
Subcommittee on the Legislative Process
Committee on Rules
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

Thank you for your letter of September 23, 1981, inviting me to participate in your hearings on congressional oversight.

Enclosed is a statement which I ask to be made a part of your hearing record. I regret I will be unable to appear in person to present my testimony.

I agree with you that the committees performed exceedingly well in complying with reconciliation instructions under difficult circumstances. The way in which they performed indicates to me the depth of their knowledge of programs and activities within their jurisdictions. Their ability to make hard decisions in such a short period of time is proof enough that they can do an effective job without additional disciplines to assist them in decisions they are required to make.

I am very much opposed to mandating strict time frames for committees to conduct their oversight activities, and for the reasons outlined in my statement, am opposed to the measures now being actively considered.

Sincerely,

G. V. Montgomery
G. V. (SONNY) MONTGOMERY
Chairman

Enclosure

Statement of G. V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
before the
Subcommittee on the Legislative Process
Committee on Rules
October 19, 1981

Mr. Chairman, I want to thank you and Members of the Subcommittee for giving us the opportunity of presenting our views on these hearings related to congressional oversight. Your letter of September 23 indicated that you were considering several legislative proposals, including H.R. 2, the Sunset Act of 1981; H.R. 58, the Sunset Review Act of 1981; and H.Res. 100 and H.Res. 218, introduced respectively by Congressmen Lott and Moffett.

I shall not dwell on the specific features of these bills since all of them supposedly are geared to improvements in our approach to oversight activities.

Mr. Chairman, no reasonable person could seriously fault the intent of these proposals. An enormous deficit faces the Nation in fiscal years 1982, 83 and 84 unless the policies of previous years are reversed or, at least, modified. In addition, since no one can accurately predict the path of Federal revenues and economic projections over the next several years with any certainty, it would seem prudent to tighten further the congressional processes which deal with Federal obligations. My problem, Mr. Chairman, is that I just don't believe that the so-called Sunset proposals now under consideration will do the job everyone seems to want. That is, our attempts to get some control over Federal spending in order to decrease our annual deficits. Furthermore, it is my considered opinion that, if enacted, the measures you are considering will tend to have the opposite effect of their laudable intent. The result of these Sunset provisions may very well add to the housekeeping expenses of running the Congress and may hamper seriously the Congress' ability to provide thoughtful and effective oversight of present and anticipated disbursements.

I think Members of the Subcommittee will agree that properly conducted oversight requires intelligent, dedicated expenditure of time and effort. I am especially concerned with these pending proposals that would impose additional rigid and, in my view, unrealistic deadlines on the committees of the House. We are all aware of the number of deadlines which currently must be met by all committees under the Budget and Impoundment Act and the Rules of the House. It is neither realistic nor practical to place further time pressures on already overburdened committees by mandating new requirements which must be satisfied within a given, inflexible time frame.

One of the proposals before the Subcommittee would require the Speaker, in consultation with the Minority Leader of the House,to designate a period of twenty-one consecutive calendar days beginning within seven calendar days of the commencement of each session of the Congress during which each standing committee "shall review and study the application, administration, execution, and effectiveness of those laws or parts of laws, the subject matter of which is within the jurisdiction of such committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution of such laws in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of Congress and whether such programs should be continued, curtailed, or eliminated."

Section 1 of H.Res. 100 would amend the Rules of the House to provide for certain oversight agenda. It would give the Government Operations Committee a major role in the development of an oversight agenda for the House in each Congress, a role it would find most difficult to play, and one it, I am sure, would just as soon not have. Sixty days after the convening of each Congress, each standing committee would formally adopt and submit to the Committee on Government Operations an oversight agenda for that Congress. Such oversight agenda would indicate a committee's oversight "priorities" and dates when it is expected to report "findings and recommendations" to the House. Ninety days after the convening of each Congress, the Committee on Government Operations would report a consolidated agenda resolution to the House. Prior to reporting, Government Operations would hold hearings at which time the chairman and ranking minority member of each committee would testify on oversight accomplishments of the prior Congress as well as the proposed oversight agenda for the new Congress. One hundred days after the convening of each Congress, the House would be required to complete action on the consolidated oversight agenda resolution.

Mr. Chairman, this provision would expand the current rule that requires the Government Operations Committee to report within 60 days of the opening of each new Congress on the oversight plans for the various committees.

The major problem with most of the provisions being considered is that the advocates of these measures seem to not comprehend the time that would be required to meet such rigid deadlines. As has already been expressed by other committee chairmen, there simply isn't time in the opening days of a new Congress for committees to get together and agree on an oversight agenda for the next two years. As the distinguished Chairman of the Government Operations Committee has pointed out, oversight requires committees to remain flexible so they are able to adapt their energies and resources to changing conditions and situations. It is most difficult to predict within a single year the oversight activities of our subcommittees.

Mr. Chairman, I would hope you and Members of the Subcommittee will not favorably consider the proposals now before you. Let the standing committees have the flexibility they need to do their oversight work. Our committee is one of several that has created an oversight subcommittee. I chair our Subcommittee on Oversight and Investigations and I can tell you it is most active. Our other four subcommittees may conduct oversight hearings on any program within the subcommittee's jurisdiction. The chairman and ranking minority member of each of them do a great job and have shown considerable interest in oversight activities. Why should we be placed in a position of having to conduct oversight within certain periods of time? Why not allow us to continue to conduct oversight affairs as need be?

The Subcommittee must know it takes several weeks at the beginning of the first session of each Congress just to get our committees organized. When the President submits his budget to the Congress in late January, each committee must focus maximum attention to the budget reviews so that recommendations can be made to the Committee on the Budget by March 15 of each year. We are then required to hold hearings and report all authorizations by May 15, and after June 1, begin to bring to the Floor of the House our entitlement bills. In between, the House must consider the First Budget Resolution, and seven days following Labor Day, the Congress is supposed to have adopted the Second Budget Resolution. Somewhere in between we are supposed to do our oversight work.

Finally, Mr. Chairman, our committee employs only 32 total staff personnel. With that small staff, we think we are doing a pretty good job in making sure programs are working and the Veterans Administration is providing a timely delivery of veterans' benefits and services. If the House were to adopt the measures now under consideration, it would require me to add additional staff personnel. The staff requirement would be necessary because of the specific times mandated in the bills for the conduct of oversight functions. It is neither realistic nor practical to place further time pressures on already overburdened committees by mandating new requirements which must be satisfied within a given, inflexible time frame.

If we can agree on the premise that effective oversight requires a great deal of dedicated time and effort on the part of members and staff, then I think that we can agree further that additional committee staff will be required to satisfy the new time constraints of the Sunset proposals. With legislative appropriations now exceeding $1 billion annually, I would suggest that this is not the time to be increasing staff, travel, and other related expenses.

Mr. Chairman, in summary, I believe that most committees are doing a commendable job in carrying out their oversight responsibilities. I know it is true with the Committee on Veterans' Affairs. We conduct our activities when circumstances require that we do so. We pick and choose our time wisely, scheduling these activities when the time allows at the most convenient time for our members. Each year we are required to spell out our projected oversight activities when we appear before the House Administration Committee in support of our expense resolution. At the close of each Congress each committee must file an activities report, which contains a listing of all hearings, reports and bills considered by the committee.

I see no need to place additional requirements on the committees at this time and for the reasons I have stated, I urge the Subcommittee to reject the proposals now under consideration.

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1081

November 6, 1981

Honorable Gillis Long, Chairman
Subcommittee on Legislative Process
Committee on Rules
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

I understand that your Subcommittee is holding its last Congressional oversight hearing on the budget process on Monday, November 16th. I regret that I will be unable to testify at that time due to the scheduling of the Further Continuing Resolution on the House floor that same day. It is also likely that a number of Appropriation conference reports may be cleared for House action the early part of that week.

Because of this scheduling problem, I would like to submit my attached testimony for the hearing record. If I can be of any further assistance, I would be happy to discuss this matter with the Committee at your convenience.

Sincerely,

Jamie Whitten
Chairman

STATEMENT OF THE

HONORABLE JAMIE L. WHITTEN, CHAIRMAN
HOUSE APPROPRIATIONS COMMITTEE

to the

COMMITTEE ON RULES
UNITED STATES HOUSE OF REPRESENTATIVES

NOVEMBER 2, 1981

I welcome this opportunity to discuss with you two aspects of the Congressional Budget Act -- the reconciliation process and the associated problem caused by section 402 of the Act regarding authorizations. First, may I say that I am not opposed to the Budget Act and I do not agree it has been proven a failure. I do say it has not been tried. What we have been operating under is a Budget Resolution which waived the requirements of the Budget Act. That is where our trouble began.

I have been a staunch supporter of the Congressional Budget Act over the years. I was the senior Co-chairman of the Joint Study Committee on Budget Control which was the study group that made the initial recommendations to the House Rules Committee which led to the drafting of the Congressional Budget Act. I was the ranking member on the first Budget Committee and I have supported the various budget resolutions down through the years. I am dedicated to maintaining an orderly budget process and I believe such a process is needed to maintain budget control. What we need to do is work under the Budget Act -- which is all together different.

RECORD OF THE APPROPRIATIONS PROCESS

My record on budget control is clear and as my colleagues know, the record of the Appropriations Committee, of which I have the privilege of chairing, is also clear. Thirty-seven of the past thirty-eight years we have been under the budget request. With regard to fiscal year 1982 appropriations, the House Appropriations Committee has once again acted responsibly. So far, reflecting twelve of the thirteen bills that have either passed the House or been reported by our Committee we are under the March 10, 1981 budget request by $3 billion. We have acted responsibly by first reducing the spending levels requested; and second, by exercising the Congressional prerogative of re-ordering national priorities.

CONGRESS -- THE PEOPLE'S BRANCH OF GOVERNMENT

I am proud of the fact that the Congress is the People's Branch of Government. The recommendations made by the Appropriations Committee are based on extensive hearings and review. Markups are conducted on a line-item basis. During the 96th Congress, the Appropriations Committee, through its established subcommittee structure, held over 720 days of hearings, taking testimony from 10,215 witnesses that was recorded in 225 volumes of hearings comprising some 202,767 printed pages. Furthermore, the Committee conducts hundreds of studies of various federal programs and activities.

We have followed this same time-tested procedure again this year. Drafting appropriation bills is not an exact science, but it is based on the sound underpinnings of hearings, studies, and other review. And we do the best we can to reach a consensus that is satisfactory to the majority on both sides of the aisle.

CONGRESSIONAL RESPONSE TO THE PRESIDENT'S ECONOMIC RECOVERY PROGRAM

The first nine months of 1981 were truly unprecedented in the annals of budgeting. We saw the President use the process of budgeting, appropriating, and legislating to implement his desires. Those of us in Congress pledged early to give his recommendations a fair hearing and early action. Less than 12 weeks after the President submitted his March 10 package of budget restraint the Appropriations Committees of the House and Senate sent to the President a bill embracing the largest amount of rescission actions in history. This action caused a minimum of dislocations because each sub-committee which knew the subject recommended the cuts. The Conference Agreement that was hammered out between the two bodies embraced $14.3 billion of the $15.1 billion in cuts sought by the President. It is true that we did not agree on each and every of the 500 items in the package, but I must point out that we approved a package embracing 94% of the reductions requested by the President. In addition, the Committee also reduced program increases sought by the President by some $1.6 billion. I don't believe the Congressional response to the call for Economic Recovery has ever been surpassed in our history.

LET'S RETURN TO THE BUDGET ACT

Mr. Chairman, the prime purpose of your hearing is the use or abuse of the reconciliation process. Here I would like to point out that the reconciliation process that has been imposed by the Congress itself this year through the budget resolution, is a process which is itself contrary to the intent of the Congressional Budget Act. Along with other members of the Appropriations Committee and others, I believe we should fix targets, work toward them, then reconcile differences. This we have not done this year.

The reconciliation process seems to have been diverted to purposes for which it was never intended. Section 310 of the Congressional Budget Act of 1974 (P.L. 93-344) specifically places the order of reconciliation after the adoption of the second budget resolution and provides for completion of the process by September 25. The Budget Committee's justification for considering reconciliation at this stage of the budget process is based on the following two lines appearing in section 301 of the Act concerning matters which may appear in the first budget resolution:

> "any other procedure which is considered appropriate to carry out the purposes of this Act."

Thomas Jefferson stated in an opinion on the constitutionality of the national bank that:

> "It is an established rule of construction, where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, and not that which will render all the others useless."

I contend that two lines of the Congressional Budget Act should not be used to circumvent the true intent of the Act which was to place the reconciliation process at the end of the budget cycle and not at the beginning as it has now been done.

I also quote from Statutes and Statutory Construction, Vol. 2A:

> "Section 45.12 Reasonable Interpretation.
>
> It has been called a golden rule of statutory interpretation that unreasonableness of the result produced by one among alternative possible interpretations of a statute is reason for rejecting that interpretation in favor of another which would produce a reasonable result. It is said to be a "well established principle of statutory interpretation that the law favors rational and sensible construction."

It is neither sensible nor rational to rely on the language in section 301 of the Budget Act to arbitrarily propel reconciliation to the beginning of the process from the end. It defeats the clear intent of the Act. In my judgement, it jeopardizes the viability of the Act as a useful Congressional tool.

Throughout the debate on the Congressional Budget and Impoundment Control Act, the floor manager, Congressman Richard Bolling, now Chairman of this great Committee, stated that the first budget resolution would "establish guidelines" and "contain spending targets" and after legislative and "spending measures have been acted upon, it would (then) be appropriate for Congress to set firm spending levels." There is ample documentation showing that there was never any intention to place spending constraints or limits on Congress until the adoption of the second budget resolution. I fear the current reconciliation measure destroys this concept.

The premature reconciliation procedure this year also carries serious institutional implications. I submit the appearance of the reconciliation bill in the budget resolution this spring has almost completely stifled the legislative process. Consider what little substantive legislation has been before either House this year. Where is the usual avalanche of authorizing legislation that was supposed to be in place before the appropriation bills were brought forward? I do not know precisely what the figures are but I suspect that so far this year the Rules Committee has not been asked for the number of rules that have been received at a comparable date in other years since the Budget Act was passed. Certainly, the floor activity has been sparse. The reconciliation bill has inhibited the entire legislative process and an omnibus package has been created to dramatically change the direction of government almost overnight.

This extraordinary reconciliation bill has been assembled with very few individuals understanding its overall content and with little or no public hearings or review as is alluded to in a letter to the Rules Committee advocating a closed rule. While advocating a closed rule, the letter contains this revealing statement:

> "In many instances, this (reconciliation) procedure meant severe limitations on the time available for consideration of major legislative proposals and, in virtually every case, allowed no time for public hearings or review."

The House of Representatives is the people's Branch of Government and the purpose of the Congressional committee system is to conduct public hearings and review in detail legislative proposals to determine their effect. But this procedure has been circumvented in this instance. The Appropriations Committee has prided itself in carrying forward this very detailed review of the matters under our jurisdiction and we intend to continue this method of approach.

Reconciliation sets a very dangerous precedent for the legislative committees to be required to set aside the public review process in very complex issues. The Congress rushed through a bill that affected programs for two and three years down the road without even an opportunity to fully understand its effects. On top of that, Congress was asked, in the interest of expedience, to forfeit our responsibility as representatives of the people and approve it without amendment. How far we have come from the intent of the Budget Act. As a senior member of this House I cannot justify or condone such a procedure that is basically contrary to the established and accepted principles of this institution.

As you know, full hearings and careful thought by both the Study Committee and by the Rules Committee resulted in the sound conclusion that the first resolution on the budget be confined to targets as opposed to firm ceilings. Those studies and the action of the Rules Committee also brought about the feature of the budget process timetable which calls for reconciliation after the regular authorization and appropriation cycle conducted within the established committee structure and after the completion of the second concurrent resolution on the budget.

EARLY AUTHORIZATION NEEDED

The authorization problem is chronic and shows absolutely no sign of improving on its own. These provisions of the Budget Act have been tested and they are not adequate. Legislative timeliness is essential to Congressional budget control. If a device is not found to secure authorizations in a more timely manner in such sensitive areas as national defense, international affairs, health, education, science, energy and others, the legislative budget process will become inoperative and the Congress will have forfeited a rare opportunity to implement effectively its will in setting national priorities and achieving legislative budget control.

Several alternatives are available which would rectify the problem or improve the situation. Let me call attention to section 402(a) of the present law. It reads as follows:

> Reporting of Authorizing Legislation
>
> Sec. 402. (a) Required Reporting Date. -- Except as otherwise provided in this section, it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

Four specific proposals come to mind which you may wish to consider:

First, this section could be replaced with language embracing the original recommendation of the Joint Study Committee on Budget Control to which I referred earlier. The proposal was that authorizations take effect no earlier than the fiscal year after the fiscal year in which they are enacted. Under that proposal, authorizations for the applicable fiscal year would be enacted before the President's budget is submitted. This approach was recommended by the Joint Committee after very careful study. From the standpoint of the Congress, it would accomplish two valuable objectives. It would solve the problem of late authorizations and allow the Congress to consider appropriation bills based on enacted authorizing legislation. It would also afford the Executive an opportunity to cast an annual budget in accordance with Congressional intention as reflected in the authorizing bills. If the Congress is serious about taking the lead in setting national priorities, it would seem this approach would be most attractive. Enactment of authorization prior to submission of the budget would accomplish maximum Congressional impact on the budget, permit timely consideration of appropriation bills and would reduce the extensive use of continuing resolutions, which further tends to diminish the influence of Congress on policy.

Second deals with a proposal, where multi-year authorizations could be required with the provision that such authorizations be renewed a year before the expiration date. There are a number of programs, especially some in the education field, that traditionally have been authorized on a multi-year basis. Many people who have studied the authorization problem believe the answer is multi-year authorizations.

Third, and referring again to section 402(a) of the Budget Act, the requirement for reporting authorizing legislation by May 15 could be altered to require the enactment of authorizing legislation by May 15. This would leave to the authorizing committees of the House and Senate the responsibility for planning and executing schedules for reporting bills, securing floor time, and scheduling conferences so that the May 15 date might be achieved.

A fourth alternative, but in my view one not fully satisfactory, would be to adopt the March 15 reporting date for authorizing legislation as recommended by the Rules Committee originally and agreed to by the House in its version of the Budget Act.

Clearly, the first two alternatives are the most desirable and would tend to bring some order to overall legislative budget control.

Whatever solution that may be agreed to should also include a revision of the House Rules -- perhaps Clause II of Rule XXI -- which would disallow points or order against funds in appropriation bills after June 1 if renewed authorization is not enacted by that date. In other words, points of order would not lie against items in appropriations bills after June 1 because authorizations had not been enacted. This waiver could be written so that it would not apply to new programs.

EXAMINE THE LEGISLATIVE HISTORY

I commend the hearings which your Committee is conducting in this vital area. We must constantly renew ourselves, but we should not forget our past. Possibly our solution lies in returning to five fundamental guidelines proposed by Chairman Richard Bolling on December 4, 1973 when he managed the Budget Control bill on the House floor:

> First has been the commitment to find a workable process. Not everything that carries the label of a legislative budget can be made to work. The complicated floor procedures contained in the Joint Study Committee bill have been eliminated because they would have inhibited the proper functioning of Congress.
>
> Second, budget reform must not become an instrument for preventing Congress from expressing its will on spending policy. The original bill would have ruled out many floor amendments, it would have stunted the free consideration of appropriation measures, it would have bound Congress to unusual and oppressive rules, and it would have given one-third of the Members the power to thwart a majority's effort to revise or waive such rules. Points of order could have been raised at many stages of the process and legitimate legislative initiatives would have been blocked.
>
> The objective of budget reform should be to make Congress informed about and responsible for its budget actions, not to take away its power to act.
>
> Third, budget reform must not be used to concentrate the spending power in a few hands. All Members must have ample opportunity to express their views and to vote on budget matters. While it is necessary to establish new budget committees, they must not be given extraordinary power in the making of budget policies.
>
> Fourth, the congressional budget must operate in tandem with and not override the well-established appropriations process. Through its power of appropriations, Congress is able to maintain control over spending. That power has been exercised responsibly and effectively over the years and it should not be diluted by the imposition of a new layer of procedures.
>
> Fifth, the budget control procedures should deviate only the necessary minimum from the procedures used for the preparation and consideration of other legislation. Undue complexity could only mean the discrediting of any new reform drive. We must not load the congressional budget process with needless and questionable details.

CONCLUSION

I have made reference to some of the major and most immediate problems we see with respect to the Budget Act and its impact on the Legislative process. There are others which will surface and I hope there will be opportunity to address them. However, in order to help restore some integrity to the intent of the Budget Act, I offer three suggestions:

First, I recommend that we return reconciliation to its proper sequential position in the Congressional budget process -- late in September after the enactment of the Second Concurrent Resolution on the Budget as clearly called for in the law.

Second, in order to preclude the recurrence of premature reconciliation, and just as importantly to preclude the imposition of other procedures not specifically intended by the Congressional Budget Act, I recommend that Section 301(b)(2) of Public Law 93-344 be subjected to proper interpretation or repealed. This is the seedbed of the problem confronting us now -- that language which has been used to circumvent and defeat the original purpose of the Act. It is the permissive language appended to the content of the first budget resolution which reads as follows:

> "Any other procedure which is considered appropriate to carry out purposes of this act."

BEST COPY AVAILABLE

If this section can be used as it has to reverse reconcilation, it can and will be used for other purposes not intended by the Act. If it can be demonstrated that refinements to the Act are desirable, let them be justified to and specifically authorized in law by the Committees which have the legislative jurisdiction over the Budget Act.

Third, in order to address the chronic problem with the lack of authorizations, amend section 402 of the Act possibly in one of the ways I suggested earlier in this statement.

These are but a few recommendations which I believe will develop a more effective and more workable process. This does not require a massive overhaul of the existing system -- indeed, I feel that would be a big mistake. What we need now is just some fine-tuning to eliminate some of the problems we've discovered.

It has been my experience that hard fiscal decisions are a matter of will as much as procedure. Adequate procedures are necessary but in the perspective of the fiscal history of the Federal Government, the Budget Act has but a brief and frail history. In my judgement, it would represent a great disservice to this institution and to the nation if this otherwise sound device for fiscal control were allowed to flounder and fail through abuse.

I am very grateful for the opportunity to have presented my views on ways of improving the Congressional Budget Act. This is a most important issue to the Congress and the nation and our credibility as an institution hangs in the balance.

THANK YOU.

Mr. LONG. The subcommittee stands adjourned.

[Whereupon, at 4 p.m., the subcommittee adjourned, to reconvene at the call of the Chair.]

CONGRESSIONAL OVERSIGHT OF FEDERAL PROGRAMS

WEDNESDAY, MARCH 24, 1982

House of Representatives,
Subcommittee on the Legislative Process,
Committee on Rules,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m., in room H-313, the Capitol, Hon. Gillis W. Long (chairman of the subcommittee) presiding.

Present: Representatives Bolling, Beilenson, Frost, Bonior, Panetta, Regula, and Loeffler.

OPENING STATEMENT OF HON. GILLIS W. LONG, CHAIRMAN OF THE SUBCOMMITTEE ON THE LEGISLATIVE PROCESS

Mr. Long. The subcommittee will come to order.

Today, in our continuing series of hearings on congressional oversight and its relationship to the legislative process, we are honored to have two distinguished witnesses, who are recognized experts in the congressional budget process.

As we examine congressional oversight, we must pay attention to the congressional schedule and its many varied requirements. Since the inception of the Congressional Budget Act of 1974, the budget process has made more and more demands on congressional committees and on the floor schedule. Whether or not the budget process has diminished the amount of time focused on congressional oversight activities is uncertain. It is entirely possible that recent attention to shrinking Federal resources has redoubled efforts to perform adequate congressional oversight in order to preserve necessary programs.

Oversight may be defined in a variety of ways. But I believe that it must always be considered a fundamental, ongoing part of the legislative process. It is a permanent link in the chain of decisionmaking that results in wise laws and careful budgetary determinations. Oversight must not be relegated to secondary status.

We are very pleased to have with us today witnesses whose experience, training, and interest give them unusual qualifications to make relevant recommendations to us about improving the legislative process.

Before introducing them, however, I would like to state for the record that the Subcommittee on the Legislative Process welcomes participation in this hearing by members of the newly established task force on the budget process. In appointing this task force, Chairman Bolling charged the panel with the responsibility for conducting a thorough investigation of the causes for the disruptions in the budget process, to review carefully proposals to improve the budget process, and to make such recommendations as it deems appropriate to the full committee.

Our distinguished colleague, Congressman Tony Beilenson, a diligent student of the House who has shown keen interest in the hearings of this subcommittee, has been named chairman.

The task force on the budget process will be comprised of six members of the Rules Committee. Joining them on the task force as nonvoting ex officio participants will be nine distinguished members from other committees. The diversity of membership of the new panel will enrich the perspective and discussion of the budget process and its problem aspects. The task force members, in addition to Chairman Beilenson, are Representatives Martin Frost, Dave Bonior, Tony Hall, Del Latta, and John Rhodes from the Committee on Rules. Ex officio members from other committees will be Representatives Jim Jones, Bill Hefner, Leon Panetta, Dick Gephardt, Adam Benjamin, Bill Frenzel, Ralph Regula, Dick Cheney, and Tom Loeffler.

On behalf of the members of this subcommittee, I offer our fullest cooperation to our colleague, Chairman Beilenson, in presiding over this difficult assignment. We look forward to working with him in any way that may be helpful.

Our first witness today is no stranger to the House of Representatives nor to the Rules Committee. Robert Giaimo retired from the House in 1980, after more than 20 years as a Representative from Connecticut. From 1977 to 1980, he chaired the Budget Committee. And he also served as a member of the Appropriations Committee. Bob Giaimo appears today as cochairman of a notable bipartisan group, the Committee for a Responsible Federal Budget. This organization is dedicated to strengthening the Federal budget process. The committee attracts input from numerous distinguished citizens who share the concern we all have for the future of the budget process and for the resilience of the American economy in a changing world.

Bob, I know of no single person better qualified than you to advise us on the legislative process. We are pleased that you bring to us your own insight as well as the recommendations of the Committee for a Responsible Federal Budget. We invite you to tell us how Congress can do a better job of oversight of the Federal budget.

Before you begin, Bob, I'd like to introduce our other witness as well. Dr. Allen Schick is also a person familiar to the Halls of Congress and its committees. A foremost authority on the congressional budget process, he has been adviser to congressional leaders throughout his years at the Congressional Research Service. I might add that he has been most helpful to this subcommittee in the development of legislation. Recently Allen has left the Library of Congress to become a professor in the School of Public Affairs at the University of Maryland and an adjunct scholar at the American Enterprise Institute. We are pleased to have you with us in your new academic capacity, Dr. Schick. Your commentary on the

Congress and its operations is always enlightening, innovative, and often quite entertaining.

Inasmuch as we are fortunate to have two profound experts with us this afternoon, I very much hope that you both can remain for the duration of the hearing. Our proceedings are most informal, and I encourage you both to question, comment, or otherwise participate throughout the testimony.

STATEMENT OF HON. ROBERT N. GIAIMO, COCHAIRMAN, COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET

Mr. GIAIMO. Thank you very much, Mr. Chairman, members of the committee. As you know, I am testifying today on behalf of the Committee for a Responsible Federal Budget. And as you know, that is a committee that I cochair along with former Senator Henry Bellmon of Oklahoma who retired last year from the Senate Budget Committee as the ranking Republican Member.

In addition to the two of us, we have on our board of directors an outstanding group of citizens who are members because of the fact that they are concerned, terribly concerned about the budget process and about Federal spending and revenues and all of the things that are involved and what happens in the future.

And the members of our board are Brock Adams, Roy Ash, James McIntyre, Jr., Del Clawson, Howard Moskoff, Alan Greenspan, Edmund Muskie, John Filer, Robert Strauss, James Lynn, Peter Peterson, Al Ullman, and Elmer Staats. And as you know, these are all men who have tremendous background in budgeting and in the process and in the whole subject matter.

Let me say, in the beginning, it is not our position that the budget process as we know it now is perfect, far from it. But we do believe it is the best hope that we have to promote responsible fiscal policy in this country.

There will always be differences of opinion about spending and tax priorities, but most observers, indeed, most taxpayers agree, we must have a system within which we first agree on aggregate fiscal policy; then decide among competing priorities. The congressional budget process is all that exists to achieve that objective. There is no other mechanism.

There are ways in which we would modify the existing process. We are very aware that many others are anxious to alter our budget system. But there are no changes so compelling that we would recommend floor consideration of amendments to the Budget Act this year.

The most important goal, whenever we consider changes in the Budget Act and process, should be a stronger, more effective system. We are convinced that there is a real danger that opening the Budget Act to amendment this year could have exactly the opposite effect. The Budget Act now includes provisions which would allow immediate implementation, at least on a temporary basis, of most of the proposals for change that seem to have widespread support.

Sections 301(b)(2) and 301(a)(7) authorize inclusion in a budget resolution of "any other procedure" and of "such other matter" as may be appropriate to carry out the purposes of the act.

Debate on the budget process this year could divert attention from the critical substantive debate on the budget battle itself which certainly, as you well know better than I, is a major concern of the Congress this year. Our committee believes, and there seems to be substantial congressional consensus that the deficits projected in the President's budget are too high. It will require all the energy and attention which Congress can commit to budget matters this year, just to agree on a budget with which the Nation can live.

Stressing once again that we adamantly oppose floor consideration of Budget Act amendments this year, there are two changes in the process which Congress could try on a temporary basis and which our committee would support, and let me just say, Mr. Chairman, members of the committee, the reason that I am so adamant in opposing consideration this year is because I am afraid, frankly, that while your committee would be trying to strengthen the budget process, there are some Members who perhaps for one reason or another might try to weaken it.

And I think that is the problem, and why we are afraid that this is not the year for consideration, or cool consideration of the act. First, we support moving to a single compulsory budget resolution each fiscal year. And as I stress, we think that you can do this on a temporary basis without opening up the act. I think your committee has the power to do this. Support moving to a single compulsory budget resolution each fiscal year.

The budget debate has dominated the congressional calendar to an extraordinary extent in recent years. This would not foreclose Congress' option to consider a subsequent resolution, if that seemed appropriate, sometime later in the fiscal year.

As a practical matter, Congress has revised the second resolution in the springtime, two-thirds of the way through the fiscal year in fiscal years 1978, 1980, and 1981. And they are going to clearly have to update the fiscal year 1982 resolution this spring.

Mr. LONG. You are suggesting, as I understand it, Mr. Giaimo, that we could have only one budget resolution this year without an amendment to the act.

Mr. GIAIMO. Yes.

Mr. LONG. We would not have to take it to the floor. I think that you——

Mr. GIAIMO. I am saying that you could provide—you could approve a budget resolution under section 301 which has the phrase in there, those phrases in there, "any other procedures and such other matters." The Rules Committee could approve a budget resolution which would go to the floor and say these numbers in the May 15 resolution shall be binding, and you could put in provisions unless we adopt the second budget resolution in September or caveats of that kind, or in the event that there is not a second budget resolution in November, the resolution herein presented to the House shall be binding.

Mr. LONG. I think all of us that are supportive of the budget process take the same position that you do, that right now is not the time to bring up substantial amendments to the act itself. Certainly not this year.

Mr. GIAIMO. Right.

Mr. **Long**. There are too many other things that are distracting us, too many other things that could lead us astray. Even for those who are supportive of it, to try to get something resolved in this critical situation in which we find ourselves could ultimately lead to very bad consequences, and I think that most of us agree with that.

Mr. **Giaimo**. Basically what we are saying, I suppose, is that, if you recall, in past years we consumed almost the whole year on struggling over this budget resolution twice, and, in fact, three times if you count the spring resolution.

But if you had your binding resolution in the spring, on May 15, and then you deferred that September one, or you eliminated that September one, and made your changes and adjustments two-thirds into the fiscal year, the following spring, when at the same time you are faced with all of the supplementals and additional requests for expenditures and also you have a better fix on the economic assumptions, I think you save yourselves a lot of grief, and you can save yourselves a lot of time and controversy which is now spent on the process.

Mr. **Long**. Good. Thank you.

Mr. **Giaimo**. This would not foreclose Congress' option to consider a subsequent resolution in September or anytime else, if that seemed appropriate sometime later in the fiscal year.

As a practical matter, as I said, you revised the second resolution with a third resolution in 1978, 1980 and 1981, and you are going to have to do it this year. Clearly, then, Congress can alter the budget when it is convinced of the necessity to do so.

And equally clearly, a compulsory revision of the resolution in the fall does not forestall the need to revisit the budget yet again later in the year. So why, therefore, schedule two resolutions and start adding from there? Why not do the job once in the spring and only revise the budget thereafter if there is a solid case for doing so?

Congress could declare the spring budget resolution to be the resolution for the purposes of section 310 of the act which requires a second budget resolution, thus making the totals in the spring resolution binding. The act only requires that Congress reaffirm or revise the spring resolution on or before September 15.

There is nothing in the act that actually requires a separate second resolution nor mandates that Congress wait until fall to reaffirm its decisions in the spring resolution. This approach might have the salutory effect of encouraging more serious attention to the accuracy and credibility of the numbers in the spring resolution. I suspect it would.

Until last fall, Congress may have made mistakes, but we never passed a binding budget resolution within which we knew we could not live and said so when we voted for it, and as you know, we practically did that last fall and winter.

On the other hand, the Congressional Record is full of debate on first budget resolutions to the effect that quote, "If we cannot live within these totals, we shall have the opportunity to change them when we consider the second resolution in the fall."

Many of us have said in the past Congress has an obligation to act on budget resolutions as required under the act, if only to preserve our own budget process. Let us say now about budget resolutions with which we cannot live in general, and about the second resolution for fiscal year 1982 in particular, neither the budget process nor Congress is well served by adopting completely unrealistic budget resolutions, and I submit that if we do that much longer, we will make a travesty out of the act. And Congress has a way of eliminating travesties by totally ignoring them.

A sound budget process presupposes credible budgets, and anything which has the effect of causing Congress to give serious thought to the constraints implied by budget resolutions when those resolutions are adopted, would be salutory, indeed, in our view.

The second change we would support and which could be implemented on a temporary basis in the fiscal year 1983 budget resolution would be to move as far as possible in the direction of an enforceable credit budget. This could be accomplished in either of two ways. The resolution could include a credit budget and create a point of order against any legislation which would cause the amounts in the credit budget to be exceeded or the resolution could include a credit budget but no specific enforcement mechanisms, and indicate either in the report or the resolution congressional intent to make credit totals binding at some specific future point in time.

Clearly, control of credit activities is an issue which must be addressed. The only reason we do not strongly recommend adoption of binding credit totals this year is that we are not certain that we have the necessary data to set and enforce realistic totals, nor that we know quite how those totals should be set and enforced.

On the first point, for example, what would one do about setting credit totals that included agricultural credit programs? The amount of activity in these programs, as you know, is a function of weather conditions, as well as crop failures and all of those things. They fluctuate with the cost of money, with activity in the real estate and construction industries, and with construction costs.

The second question, however, may be much more complicated and politically difficult to resolve. If you set a binding ceiling on direct loans, loan guarantees, and insurance, would you limit its effect only to new legislation, or would you apply it to all existing loan programs, as well?

Even if you limited the effect of the ceiling to new laws, would you attempt to ration credit activity based on functions of Government to control credit activity on a program-by-program basis to somehow insure that the neediest borrowers get credit first or simply ration on a first-come-first-served basis?

One thing you cannot do—you cannot effectively control credit activity by attempting to enforce at the aggregate as budget totals now are enforced. That would trade off agricultural credit against student loans and housing guarantees, and it simply would not work.

Some of those authorizing statutes already give the administration the authority to limit credit in specific programs to the amounts provided in appropriation acts. There is no entitlement, for instance, to anyone for a small business disaster loan. At least in theory, when we run out of appropriations for these loans each year we run out of authority to extend further credit.

In practice, administrations have generally requested and Congress has usually provided sufficient funds to meet the needs of all eligible borrowers who have applied for a disaster loan, but there is no compulsion in law to do so.

Perhaps a better example of controllable credit activity is the national direct student loan program. For years, the number and amount of loans in this program has been limited to funds available in annual appropriation acts plus repayments. Most credit programs, however, behave like entitlements and tax expenditures.

That is the level of activity and cost is largely determined by the eligibility criteria created in the underlying authorizing statute. Attempting to control these programs without changing those eligibility criteria could cause the kind of confrontations we have experienced in the food stamp program in recent years. Either cut everyone off sometime during the year or up the ante.

So I think that you ought to address the problem of the credit budget, but certainly you can appreciate better than any of us the real difficulties in addressing that, but that is true of everything that we do in budgeting and in spending so it is not something that we should not address or ignore.

On reconciliation, our committee supports reconciliation as a necessary part of the budget process. We know that there have been complaints about the way reconciliation was used last year. Some of those complaints were well founded. Reconciliation should not be used to enact or to change non-budget-related provisions of law.

On the other hand, a meaningful budget process requires a mechanism for reconciling the total of individual spending and tax decisions with congressionally determined aggregate fiscal policy.

Last year and the year before almost everyone agreed we needed to cut Federal spending. There were differences of opinion as to what should be cut, and as to the depth of the cuts. But most everyone agreed we had to do something. We could not have cut as we did and particularly, we could not have cut entitlements such as food stamps, medicaid, and student loans without an action-forcing mechanism.

And reconciliation is an action-forcing mechanism. It allows Congress, not the Budget Committee and not the administration to decide what it wants done. The reconciliation instructions are included in a budget resolution, and it requires agreement of both houses. But once Congress agrees on a resolution including reconciliation instructions, it tells committees to report legislation to increase or decrease spending and/or taxes by specified amounts and to report that legislation within a specified time. Congress can, of course, dispose of the reported legislation as it chooses. Nothing compels the House, the Senate, nor the conference to accept the recommendations of any committee.

Reconciliation establishes a set of rules including time limits and special procedures for debate, to expedite consideration of legislation to accomplish very specific objectives once Congress determines those objectives are so compelling as to require the use of this extraordinary procedure.

We are still learning to use the reconciliation process. We may want to consider refinements to help insure reconciliation legislation is confined to budgetary matters rather than broad legislation and/or authorizations basically unrelated to the reconciliation instructions.

Last year's reconciliation bill, for instance, provided authority for the Student Loan Marketing Association—Sallie Mae—to issue tax exempt bonds. No Federal, no quasi-Federal agency had such authority prior to the reconciliation bill. There were no hearings on the issue. No consideration was given to the possible influence on other similar agencies and their practices. Indeed, many who would have been interested did not know that provision was included in the bill.

The reconciliation bill last year substantially changed Federal communication law and included several other nonbudget related provisions. But there does not seem to be any consensus as to how we could best insure reconciliation does not reach beyond budgetary boundaries.

We, therefore, would urge that you leave well enough alone. Congress has learned to use the reconciliation process through a kind of on-the-job training program. It may not have worked perfectly, but it worked. We are confident the process of evolution will eliminate most of the bugs, and we would not recommend trying to rewrite this portion of the act until there is substantially greater agreement than we sense now as to just what the rewrite ought to say.

A final word on that subject. When you are dealing with massive items of legislation, and there is a temptation on the part of some Members to utilize the legislation as a vehicle to get substantive legislation through, they are going to do it. You are just going to have to watch it more carefully to see that it doesn't slip in. The same thing happens when massive tax bills are written.

I dare say that very few Members of Congress knew anything about the leasing provisions which were in the tax bill, but that got in there. So, I think that is the way in which you have to be careful and watch out that they don't take advantage of this legislation as a vehicle not to arrive at required budgetary totals, but, in fact, to pass substantive legislation.

Let me just say a word on constitutional amendments. And these would be amendments to limit spending or taxes, and/or to require a balanced budget. Our committee opposes them. We don't think they will work. We are concerned that confronted with a constitutional mandate to balance the budget this year, Congress would simply change the accounting system, move spending off-budget, or in some other fashion comply with the letter of the law without substantially altering the role of the Federal Government in the economy.

Congress is great at coming up with new ways of figuring out how to accomplish things or how to avoid certain things. And the real harm in a constitutional amendment, and I suspect that there is growing support for a constitutional amendment—the real harm is that you are going to be sending out a false signal to the American people.

You are going to be sending out a signal to them saying we have solved the economic problem when, in fact, you will have not done a thing to solve it. And that is wrong, not only wrong; it's dangerous.

We are also concerned that the constitutional amendments we have reviewed attempt to close the barn door after the horse is long gone. They attempt to control Federal outlays, not obligational authority, and the only way you will ever really control Federal spending is to exercise control at the point at which the spending or tax legislation is enacted.

And finally, we are concerned that all the discussions of constitutional amendments to balance the budget, as I said, may give the illusion they are dealing with the problem of rampant deficits, and relieve some of the pressure to face the hard decisions which must be made if we are ever to get our fiscal house in order.

In closing, let me say a few words about the symposium our committee hosted in January in Arkansas on proposed changes in the congressional budget process. Some of you have seen the drafts of papers prepared for that meeting. We will provide each Member of Congress with a copy of the compendium.

You will find that the symposium participants almost unanimously agreed with the recommendations of our committee that you avoid amending the Budget Act this year. You will also find a broad range of ideas as to how our budget processes can be improved. And let me say that group included distinguished members from all walks of life, and from the Congress itself. We had the chairman of the Senate Budget Committee. We had the majority leader of the House and other members of the House and Senate Budget Committees, and other Members of Congress, I believe. Yes; other Members of Congress were there. So that we had substantial interest.

You will also find a broad range of ideas as to how our budget process can be improved in our compendium. We hope to further explore some of the ideas and issues raised in Arkansas at another symposium we will host this summer in studies and in seminars which we hope to conduct around the country.

Please let me know if there is any other way in which we can be helpful to you as you undertake this very important review of the process we exist to support and to help strengthen. We thank you very much for the opportunity to be here today. But, again, in closing we are vitally concerned that we are at a very critical economic crossroad in our Nation's history. And the Congress has got to take and play a greater role in finding solutions and answers, and it is going to require that discipline which we call the budget process.

Mr. LONG. Thank you very much, Mr. Giaimo, for your very enlightening testimony. The insight you bring comes from a great deal of experience with a very complicated process over a number of years. Maybe we can talk a few minutes about the combination of the appropriations process, the legislative authorization process, and the budget process. But we will wait on that. Chairman Bolling, do you have any questions?

Chairman BOLLING. I can't really not take the opportunity to ask my friend with whom I worked so closely on this process before he left, will you comment a little bit on something that seems to me as important as the matter of loans and appropriations. One of the things that has always seemed very curious to me is the willingness of at least one of the major communities of the country, largely, the business community, to try to insist that tax expenditures are wholly different from any of the other expenditures. And it seems to me that is something that has to be confronted directly because it has a very significant impact on the overall problem.

And while you can say that a tax expenditure is different from appropriation, you also can recognize that it could also be viewed as an evasion of the appropriation process and perhaps it might better be dealt with through appropriations rather than tax expenditures. It is just so much more convenient.

And I would be interested in—it is not a cause of any embarrassment to my friend from Connecticut—I would be interested if he would comment on it.

Mr. GIAIMO. As you know, I offered legislation several years ago to include tax expenditures along with spending outlays in an attempt to limit all spending and tax expenditures to a percentage of GNP.

Chairman BOLLING. I did remember that.

Mr. GIAIMO. Remember that. And it is still not a bad idea, but with all that you have got on your plate this year, I am not so sure you better get back on that legislation although maybe you ought to.

Again, I have to speak for myself because the committee did not take a position on tax expenditures. Frankly, it wasn't really discussed, and I guess it is perhaps my fault that it was not discussed because it certainly should have been a subject that we did get into. But we got into these other two, and that was about all we had time for.

There is no question in my mind that tax expenditures are not only a major source of spending, albeit on the revenue side, but that they are going to be an increasing manner of spending. No question about it. You are not going to increase outlays very much other than where they are increased by virtue of necessity because they are entitlements or defense or social security or medicare or something like that.

So, again, Congressmen being very intelligent people quickly realize that if you want to accomplish a good and need money to do it, write it in the form of a tax expenditure. And I think you are going to see an increase in the present year, and in the immediate future years.

So, therefore, you have got to address yourselves to that problem, and, it is my opinion, as an individual, certainly I would like to see them brought under control the same as spending. Whether you would do it through the revenue committees or through the appropriations process, as you mentioned, is something that you would have to determine in what would be the best way of addressing this.

Should we consider them revenue, revenue items, or should we really consider them for what they are, and that is expenditure outlay items.

Chairman BOLLING. I know that the reason that the gentleman did not pursue it any harder a couple of years ago and also more recently is the same reason that I did not pursue it very hard when all I managed to get into the Budget Act was some attention given to it. It was a deliberate decision not to take on that other battle. But we are now in a situation in which it seems to be uniquely different.

For the first time, and I am not suggesting that we necessarily act on it this year, but for the first time everybody is making it totally clear that the way in which you get taxes is through tax treatments and expenditure treatments. And they are just exactly equal in terms of their significance.

If you get rid of the tax dollar, you have added to the deficit just as if you had increased in the expenditure. And it seems to me that this is uniquely an opportunity for the general public to understand the major significance of tax expenditures. And that is the only reason that I include them on the performance of the subcommittee in connection with the future activity of the task force to put this before us early on.

I think it is an absolutely essential aspect of the problem, and I think everybody in the country is going to have to face it.

Mr. GIAIMO. And the budget crunch which you are facing now further mandates, I believe, that you look at it because, clearly, you are desperately looking at places to cut expenditures and frankly, from what I read in the newspapers, not finding them.

In fact, of what I read in the newspapers, they are writing letters from the appropriating—spending committees to the President telling him that they cannot go along with the reductions that he is requesting. Then you—so you cannot find it there. And then that compels you to look at the revenue side of the budget, and quite frankly, the revenue side of the budget, in my opinion, is the side that really is going to have to be looked at this year because as we—as our committee said, deficits are too high.

And if deficits are too high, and you cannot reduce spending, it means that you are going to have to look at revenues, and the fact that, in my own opinion, we gave away too much of our revenues this year. That is my opinion.

Well, in looking at revenues, you are going to have to look at tax expenditures because there are many ways of increasing revenues to the Treasury. One is to defer the 1983, 10-percent reduction. There are many, many other ways that we could enhance revenues, many of which are in the area of tax expenditures.

Some of which, incidentally, are in sacred cows as is social security and other things like mortgage interest deduction and capital gains treatments and things of that kind.

Chairman BOLLING. I thank the gentleman. I thank the chair.

Mr. LONG. Thank you. Chairman Beilenson?

Mr. BEILENSON.Thank you, Mr. Chairman. Mr. Giaimo, do you expect that your Committee for a Responsible Federal Budget will come up with some additional recommendations later?

Mr. GIAIMO. I believe we will. We are going to be meeting and discussing some of these things, and we are going to try to. It would be helpful to us—we have been meeting with Congressmen and Senators from time to time. We have met with the budget leaders of the House and Senate on several occasions. We are meeting again next week. And with not just the budget leaders—well, yes, the budget in a broader sense, but not just Budget Committee members, but other members, Finance Committee members. Some of you are members.

And we discuss some of the problems, and hopefully we would—if we could act as a catalyst or as a workshop, if you will, to develop some of the necessary ideas or information. We would be glad to.

Mr. **BEILENSON**. You suggest that there are two changes which we should try on a temporary basis. Do you say that only because you don't want the whole pack on the floor for amendment this time?

Mr. **GIAIMO**. I would be terribly concerned in seeing the act up.

Mr. **BEILENSON**. I understand that, but is that why you suggest that we leave it on a temporary basis?

Mr. **GIAIMO**. Yes, yes. When I say temporary, I mean temporary.

Mr. **BEILENSON**. Existing authority.

Mr. **GIAIMO**. Let me say temporarily. I want to do it permanently.

Mr. **BEILENSON**. OK.

Mr. **GIAIMO**. But temporarily do it this way, and then in a cooler day if you want to change the act, go ahead.

Mr. **BEILENSON**. So these are both changes which you hope will be incorporated into any permanent changes in the act as well?

Mr. **GIAIMO**. Yes.

Mr. **BEILENSON**. And reconciliation, too—I take it you'll continue to study it, as will many of the rest of us, in hopes of perhaps defining it further.

Mr. **GIAIMO**. Sure.

Mr. **BEILENSON**. In terms of what is allowable and not allowable?

Mr. **GIAIMO**. Carol Cox is president of our committee, and she tells me that is one of the two topics on our next symposium, the issue of reconciliation.

Mr. **BEILENSON**. So it is possible, thereafter, that you may have some specific language. Thank you, Mr. Chairman.

Mr. **LONG**. Thank you. Mr. Loeffler?

Mr. **LOEFFLER**. Thank you, Mr. Chairman. Chairman Giaimo, I appreciate your returning to be with us. I was very interested in reading your prepared testimony earlier and have listened closely to your expanded comments. Following on Chairman Bolling's question on tax expenditures.

In my opinion, tax expenditures are an asset for economic growth. Rather than considering tax expenditures as lost revenue to the Federal Government, I believe tax expenditures frankly allow for the complete value of a dollar to be expended in our economy. The value of the dollar is not licensed by the demands of the Federal Establishment before it is ultimately returned to our economy.

And so isn't your analogy a bit of a strained analogy?

Mr. **GIAIMO**. No; because I think what you are really saying is that when you talk tax expenditure, you are dealing with the taxpayer's dollar rather than the Government's dollar. Isn't that what you are saying?

Mr. **LOEFFLER**. Yes.

Mr. **GIAIMO**. That is a very nice argument, but it is a hard one to ever answer. I mean I have had that said to me so many times by businessmen back home. Wait a minute. You are talking about my tax dollars now, not your money. But it is all their tax dollars. It is all their tax dollars.

The Government doesn't go out and earn its own money. It taxes its citizens to raise the dollars, and you have these massive tax dollars which tax them and then you begin to peal off from it via the exception route.

Mr. **Loeffler.** Would you like to comment from the standpoint of your committee or from your own personal reference then, on a Federal income tax which would be levied on an across-the-board percentage for everyone to pay and do away with all the various deductions, et cetera.

Mr. **Giaimo.** Certainly I cannot talk for the committee, but I could find new methods of raising taxes as an individual very appealing, and I am not so sure that we should begin to look at total new methods of raising money. Whether it be in the area of consumption taxes or whether it be—as you just suggested—some form of an across the board or what? But that goes way beyond the issue of tax expenditures.

Mr. **Loeffler.** In reviewing your responsibilities as chairman of the Budget Committee in the past did you encounter problems, particularly with the Appropriations Committee and that committee's reliance upon budget authority projections rather than budget outlay projections. Clearly, budget outlay projections are pertinent to the deficit on an annual budget.

Could you reflect on some of the problems that you encountered as chairman of the Budget Committee with Congress and with the Appropriations Committee and how you might recommend that we address the problem in the future?

Mr. **Giaimo.** I am not sure I know what you want to get at, but we do have many problems with the Appropriations Committees. There has got to be a degree of tension between the budget and the spending committees, and the taxing committees.

And certainly, in Congress you run head on into the Appropriations Committee and that area. Now, the conflict was in budget authority which is appropriations. And of course, we were more concerned with the outlay in the given year. I am not quite sure that——

Mr. **Loeffler.** Don't you think that what needs to be done from the appropriation standpoint is to review budget authority and budget outlays during subcommittee and full committee consideration of the appropriations bills.

Perhaps what we should do from the Appropriations Committee to be more in concert with the budget activity is to approach appropriation legislation in a two-prong manner—review the outlays as well, as budget authority.

Mr. **Giaimo.** My own feeling is the Budget Committee should then concern itself more with outlays?

Let me go to one other point.

Mr. **Loeffler.** I think it was that failing perhaps which led to the creation of a budget process.

Mr. **Giaimo.** I would agree with the gentleman.

Chairman **Bolling**. The truth of the matter is that under old laws if the Appropriations Committee and the Congress had had the will, we would not have needed a budget process.

Mr. **Giaimo**. Amen. You said it.

Chairman **Bolling**. It could have all been done through the Appropriations Committee.

Mr. **Loeffler**. And perhaps what we should do as we pursue this very difficult task is to think in terms having an appropriations committee again rise to the responsible position of perhaps what it was in the past.

Mr. **Giaimo**. Well, I don't see that happening in the appropriations process. For one thing the Appropriations Committee is a fragmented committee of subcommittees and really does not act collegially as a full committee.

Mr. **Loeffler**. That, of course, is a problem when you start getting into the outlay situation, taking the collegial atmosphere of the Appropriations Committee and comparing it to the Energy and Commerce Committee of which I served in my first term. There is a different relationship—one being adversarial; one being collegial. And it is absolutely essential that the Appropriations Committee, notwithstanding the philosophical makeup of its members remain collegial. Otherwise, you will never get through those thousands and thousands and thousands of line items.

Mr. **Giaimo**. The job has to be done. I mean whichever committee does it or whichever group of Congressmen does it, fine. That is your choice. But you would have to drastically change the nature of that committee in order to get to act as a budget committee, and I just have seen no evidence of that in all the years I have been here.

Mr. **Loeffler**. I would like to turn to one other area that you mentioned in your comments concerning a constitutional amendment for a balanced budget. I understand where your decision comes from and what it is based upon.

But is not it as well a forced mechanism as you referred to in other parts of your testimony so that we in Congress do what is required, particularly, as we all agree, we are at a very critical point economically in our Nation. For instance, speaking now in a general sense, a proposed constitutional amendment for a balanced budget, let us say, would become effective in 1985 and practically speaking, that would probably be as soon as possible anyway.

That gives us, in essence, 3 fiscal years to overcome some of our problems whether it be on the revenue side, the outlay side, whatever. But then once we get to that point, we would have an opportunity for further discipline over the budget process, the appropriation committee process, the tax process, and obviously the authorization process.

Mr. **Giaimo**. Well, just imagine if you had that in process now? What would you do this year facing $120 billion budget deficit probably, give or take $10 billion one way or the other?

Mr. **Leoffler**. But the fact is that we are in the real world. We do not have that today, and we have for 3 years an opportunity to correct our problems. It will force us to do more than perhaps we are politically willing without the carrot dangling in front or the whip coming in behind us, whichever way you want to describe it.

So realistically speaking, we have 3 years, maybe 4 or 5 years to correct our problems, to do it in a way that is as fair and equitable as possible. Would it not then serve as a proper disciplinary tool.

Mr. **Giaimo**. I do not think so.

Mr. **Loeffler**. You have watched this body raise spending and taxes, and you saw particularly from your chairmanship position on the Budget Committee, the problems involved once it got so large. A constitutional amendment would have given you a much greater ability to control the uncontrollable House; wouldn't it?

Mr. **Giaimo**. I do not see that it would accomplish what you are trying to do. Witness the fact that it would not solve your problems right now if you had had it in force and in effect.

Mr. **Loeffler**. I know, but we are dealing with tommorrow.

Mr. **Giaimo**. You are faced with some tough decisions here, neither of which you want to do. Not you but Congress. You either have to cut spending and/or increase taxes, both of which are very difficult decisions to make. So what happens? You send out a message to the American people and say we have solved the problem. We are going to adopt a constitutional amendment, and they are going to think that you have accomplished something for a short while. And then they are going to find that it really has not done a darn thing.

Why not address the real problem rather than seeking refuge in some rigid application of a constitutional amendment which is going to tie Congress' hands in those periods when Congress must have flexibility?

Mr. **Loeffler**. To conclude, and I know that I have taken too much time, but passage of a constitutional amendment would signal serious action by Congress. I frankly believe the U.S. Congress, the administration, and the Fed right now is showing the business community that it can respond and respond in a way that it has never responded before in the history of our Nation.

I think the constitutional amendment would be one further response from the standpoint of Congress to say we are ready to go, and we are serious. I think it is sincerity that is a question on everyone's mind outside of those of us who believe in the institution and the process, and I do not blame people for that concern.

Mr. **Giaimo**. I would like to see a little more response in these other areas that you just mentioned first before we even get to that one constitutional limitation.

Mr. **Loeffler**. Thank you, Mr. Chairman.

Chairman **Bolling**. I have to leave, and I would like to add at this point one thing. If the gentleman would yield?

Mr. **Loeffler**. I would be happy to yield.

Chairman **Bolling**. There is a whole range of other problems that bear on this, and one or two of them are that the response of the Congress to a limit, constitutional limit, first would be we would move to a capital budget. And I do not even have an estimate of what that would take out from under the budget.

Then, we might—then, there are certain items that are carried as charges against the current budget that could be perfectly rationally not included. If not included, they do not include the capital aspect. There are all kinds of gimmicks that the Congress would come up with as a method of evading a ceiling, even if that ceiling were contrived very, very carefully. And I do not disagree with the thought that conceivably might turn out to be a discipline.

But I think it is terribly important in the whole proceeding to go into all those possible gimmicks and take a look at them and figure out how you deal with them as you are dealing with, perhaps, some method of a permanent discipline because I do not think you get it with anything that I have seen that has been offered.

All you get is an invitation to find another set of evasions which the Congress has been amazingly successful at doing over, I guess, all of a couple of hundred years.

Mr. LONG. Thank you. Mr. Frost?

Mr. FROST. I just have one brief question, and I know that we do have some others who would like to ask some things. I am a little troubled by your statement on reconciliation where you say that, yes, there were a lot of abuses last year. There were a lot of bad things that should never have been in there, and yet let us just kind of leave it alone and hope that the thing will work. All the bugs will be worked out in the future.

Mr. GIAIMO. Well, watch it better.

Mr. FROST. But in all due respect, it was not a question of watching it. It was a question of being in the minority, and we were steamrolled by the people who had the votes to do anything that they wanted to do whether it belonged in a part of reconciliation or not.

Mr. GIAIMO. Well, but you cannot complain if the majority included therein what they wish.

Mr. FROST. If you leave the process the way it is, it is going to——

Mr. GIAIMO. Look, the majority in Congress can do just about what it wants.

Mr. FROST. I understand. But what we are looking at are structural changes.

Mr. GIAIMO. Yes.

Mr. FROST. So what they really did was prevent a temporary majority from doing things that we might consider undesirable.

Mr. GIAIMO. Right. All right. Let me say this. I feel very strongly that the only way we are going to make major changes in outlays or revenues of large significance is through packages. You know that. If you bring them up in the ordinary course of business, they are just not going to vote for them. You have got to package them.

And that is what reconciliation basically is. In doing this, you have got to guard against what? Not the will of the majority because the will of the majority is going to prevail. What you want to guard against is the effort to do something which is not directed at reducing spending or reducing or increasing revenues, but, in fact, is directed at (a) let me use this vehicle as a vehicle to get my pet legislation which I have not been able to get through included. And that way I will get it passed.

Mr. FROST. Precisely.

Mr. GIAIMO. Or in the other body, where they have open rules and freedom of debate and amendments and all, to jam a piece of legislation through in the more confined vehicle of reconciliation. In that case, you are not really addressing a budgetary problem. You are using a budgetary problem-vehicle as a means of getting your pet legislation through. That is what you want to cut out or minimize.

I am not so sure you are ever going to eliminate it completely. Witness the fact that whenever you have massive pieces of legislation on the floor of the House many Members do not know what is in all of the pages, whether it be a tax bill. I remember a massive energy bill that we voted on several years back. There is just no way you can do it so how do you guard against that?

I guess just sharpen your pencils and keep your staffs up working longer hours. But do not try to change—kill the reconciliation—do not try to kill the packaging process which I think is the only effective process Congress has at the moment to address critical situations.

Mr. **Frost**. But is it not possible to preserve the reconciliation concept while at the same time restructuring it so that these things that do not belong as a part of reconciliation will not, in fact, be in it?

Mr. **Giaimo**. I suppose it is, but it is going to be a difficult drafting job.

Mr. **Long**. Dr. Schick has done a lot of work in this field. He has studied it and covered it. It might be appropriate if you want to comment on this, Dr. Schick?

Dr. **Schick**. Let me just mention that at no time last year during consideration of the reconciliation bill was a point of order raised concerning the contents of the bill. And one of the reasons was that the rule protected the bill against points of order in the House. As a result there is at this point no authoritative ruling in the House as to whether reconciliation can be applied to authorizations.

Now, once Congress expands reconciliation to authorizations, it throws away the main protection against using reconciliation as a vehicle for extraneous matter. That is exactly what happened last year. If Congress wants to have a reasonable reconciliation process, it does not need a germaneness rule with respect to reconciliation, rather it should limit reconciliation to those categories of legislation that section 310 of the Budget Act deals with.

Mr. **Frost**. My only concern is that I read and heard Mr. Giaimo's testimony to be, leave it alone, and Congress will behave itself. Hope that Congress will behave itself.

Mr. **Giaimo**. Congress never behaves itself. That is why you need a rules committee or a policemen committee to write out the rules for it.

Mr. **Long**. Mr. Bonior?

Mr. **Bonior**. Bob, when you appeared before the committee on December 10 in excellent testimony, you said, in effect, that the Congress should provide for limitation and try to have some control in the budget for tax expenditures. And I was awfully pleased with that statement and was hopeful that the recommendations that your committee had come up with would have included that.

I understand now from your previous statements to Congressman Bolling that you did not take up the issue or it was not discussed in Arkansas. What is the other issue that you are going to discuss in your next symposium?

Ms. Cox. The effect of economic assumptions on budgetary decisions.

Mr. Bonior. I would hope that in the near future that could be included.

Mr. Giaimo. Let me say that I will make efforts to get a discussion going on that. It is going to be a controversial subject, as you know.

Mr. Bonior. I think more importantly it is a very timely issue as we struggle here to deal with the huge deficits. I think the Congress is more and more willing to become educated on the issues which is not an easy task. It is a very complex issue. It requires time and study by the Members, and since we have to deal with these deficits, I think there is a willingness, I have seen, both in the House and the Senate for people to grapple with it.

The leadership in the Senate, for instance, is very enthusiastic about doing something about tax expenditures. Senator Domenici and others now—it is something that wasn't there before. The full magnitude of this thing has gotten to the point where we are talking about a provision of $30 billion over 5 years. So I am not so sure that the attitude that we are not ready to deal with this issue in this Congress is an accurate assessment.

It may be, Gillis, and maybe we need another year or so on it, but it seems to me we are talking very large dollars, and it seems to me the Congress is ready to take a serious look at the 104 programs that we are talking about.

The question that was raised earlier on the nature of tax expenditures is an interesting one, and I try to answer that allegation by the business community and others who have any philosophical problem with it by suggesting that there are going to be charges on the U.S. Treasury. The Constitution mandates the defense of the country for one. So I think the most ardent laissez-faire could not argue that there are going to have to be some charges on the Treasury.

The question then becomes one of equity. If group BA is able to get out of $30 billion of tax expenditures, then that has got to be made up somewhere else so we can have a B-1 bomber program if the Congress so decides, and the Nation through the Congress decides that. So it seems to me that fundamental argument is one in which we have already laid aside to some extent when we passed the Budget Act of 1974 and included the definition of tax expenditures in it.

One question, and then I will yield to my colleagues, and that is on another issue—the constitutional amendment issue. Did Mr. Greenspan and Mr. Lynn in your committee agree? Is this a total committee recommendation?

Mr. Giaimo. As I understand, I know Mr. Greenspan did, and I am quite sure that Mr. Lynn is in agreement also on all the points that I have raised.

Mr. Bonior. Thank you.

Mr. Long. Thank you. I think if you look at the history of tax expenditures as the budget process has begun to work here in the last few years, the accelerated growth of them might be symbolic, if we are not very careful, of what could happen to off budget items, capital budgets and other expenditures in the event you impose an artificial constitutional amendment.

The two could be very closely related. Mr. Panetta?

Mr. **Panetta**. I just want to get this question of Dave Bonior's.

Mr. **Giaimo**. Just to make it clear, in the case of Mr. Lynn, he is in agreement with us insofar as the constitutional amendment legislation which is presently pending in the Senate but would reserve a different form or type of constitutional amendment.

Mr. Greenspan, as I understand it, was at our board meeting when we decided this issue and is in support of the principle.

Mr. **Long**. Mr. Panetta?

Mr. **Panetta**. Thank you, Mr. Chairman. I am not very comfortable asking this guy any questions. Usually I am sitting over there when he testifies before this committee. I think the problem I see this year is that we are in a period when the process is going to be tested perhaps more than it ever has. I think more so than when you were here, Bob.

Mr. **Giaimo**. No question.

Mr. **Panetta**. More so than I think the act has ever been tested. The problem as always is that we can always develop process, but unless you have the politics and the will to go along with the process, you are not going to get anything done, and that is the problem whether you are talking about reconciliation, changes in reconciliation or whether you are talking about a balanced budget amendment or whether you are talking about changes in the budget process. Unless there is that magic agreement of the politics and the will of the Congress to go along with it, we will always find a way out.

I think one of the things you are suggesting is a single budget resolution, and I have always supported that idea. The problem I see this year is that it is so difficult to get a consensus on the initial budget resolution. I am afraid that whatever budget resolution, if we can get a budget resolution adopted, is going to require some updating rather soon because it will focus on the broad aggregates as opposed to specifics.

And it may be necessary, then, to take a look at it again, perhaps even after the election, to see whether it needs to be updated. Now, that is the way I see, at least, the political situation developing this year, and I would like to hear your comment on that.

Mr. **Giaimo**. Yes. I am afraid of the same thing. And I, frankly, do not know how you are going to pass the budget resolution this year. But a budget resolution is an economic document. It is also a political document, and the problem here is that no one wants to vote for the cuts. No one wants to vote for the tax increases, but no one wants to live with the deficit. Well, the moment of truth that I helped to build up for you for 20 years is here. It is here, and I and many others share full responsibility for it.

We had growing revenues constantly. We were able to take care of pressing problems and fund them. Now, you cannot. And now you are faced with $104—$20 billion, whatever it is, deficit which is keeping interest rates up and literally destroying the economy out there. And you have a political judgment. What do we do? What I do not want to see you do, I hope, not for the purposes of the act because—the process. It will destroy the process, I think, if you do.

I do not want to see you pass another resolution like you did with the second one of last year which you knew when you were voting for it was an unrealistic one. Now, if you do that again, I think you may as well pack in the process. But when you pack in the process, Congress is saying to the American people, we are incapable of doing what has to be done. And you better be careful when you run for reelection.

I do not think Congress is going to want to do that. Therefore, they are going to have to do something.

Mr. LONG. What is your perception, Bob, if, in fact, there is a stalemate on the budget process, and we cannot pass a budget resolution, we are into the summer months getting close to election, and there is a tendency to simply go with some kind of continuing resolution process with regards to the next year? What happens to the budget process?

Mr. GIAIMO. I think if you do not do something with it this year, then, in effect, you have really admitted that it cannot work in a crisis. And that is when it is supposed to work most of all. It would be very easy to work if we had excess revenues. That admission, in my way of thinking, would destroy the process.

Once you chip away at it, this place is like a crack in a dam. I have seen it. As a matter of fact, you do not even have to wait until this summer. You are going to be faced very quickly, I think, with something that deals with appropriations which are going to bust your ceiling that you adopted last fall. What are you going to do? And I think that is just a couple of weeks down the road.

Now, are you going to have waivers? There is the end of the process. If you grant waivers once you will be granting them everytime. It is a failure to take the bitter medicine up here, as you know.

Mr. PANETTA. This morning before the Budget Committee we had Secretary Regan from Treasury. Secretary Regan is taking the same position in support of a balanced budget amendment, and I asked him the question. I said is not it a little bit contradictory to be advocating a balanced budget amendment at the same time you propose a budget resolution that has record deficits? If you are not willing to bite the bullet in terms of your proposals to the Congress, then how can you expect that a balanced budget amendment is going to solve that problem?

And what I see building around here is the impossibility of making the tough decisions for 1983 and developing all of the excuse mechanisms to postpone it.

Mr. GIAIMO. But there is not an impossibility if we are willing to make the tough decisions. The fact of the matter is that there is a limit that has already been reached on spending. Witness the messages going from the Congress, bipartisan, that they are not going to reduce spending anymore. And there is also a bipartisan message in the Congress which indicates that revenues are too low.

You are going to have to do something with revenues. I think everyone knows that over the next 3 years, not over 1 year. You are not going to do much—you cannot do too much in this year 1983, in my opinion, but at least if you can hold out the promise to the investing public and the working public, if you can hold out a promise that over the 3-year period, we are going to be in a much

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better position in relation of revenues to expenditures, then we will get some encouragement out there, and you will begin to get, I suspect, the recovery and interest rates down.

But that is a tough decision. Now, I have not made any mention about some of the areas where you could conceivably find some spending cuts because those are the kinds of cuts in massive entitlement programs, and I suspect you are not going to make those this year until after the—I do not think either side wants to make them this year until after the commission reports back.

Mr. PANETTA. If then.

Mr. GIAIMO. If then.

Mr. LONG. Saturday night in a 1-day special session at about 10 o'clock in an unrecorded vote. [Laughter.]

The vote is merely approval of the journal. It would not be the intention of the Chair to break the meeting up for that. If any would like to record their vote on it, just feel free to leave and then come on back.

Mr. FROST. Mr. Chairman, I would point out that not everyone in the room voted for the second budget resolution last year for the very reason that it contained a false figure. I can speak for myself, and I am not sure about some of the others, but I have a feeling that at least one of the others did not also.

Mr. LONG. Thank you, Mr. Giaimo. We are most appreciative of your coming and taking your time. If you would like to stay, we would be pleased to have you stay and participate. Feel free to sit in as an ex officio member of the committee.

Mr. GIAIMO. Thank you.

Mr. LONG. You and Dr. Schick both fit that category. Without objection, Mr. Giaimo's statement will be inserted in the record at this point.

[Mr. Giaimo's prepared statement follows:]

Prepared Statement of Robert N. Giaimo, Cochairman, on Behalf of the Committee for a Responsible Federal Budget

SUMMARY

I. The Committee for a Responsible Federal Budget is a bipartisan nonprofit organization to support and strengthen the Federal Budget Process.

II. The Committee urges the 97th Congress to avoid floor consideration of amendments to the Budget Act.

- o The Budget Act now includes provisions which would allow immediate implementation (at least on a temporary basis) of most of the proposals that seem to have widespread support.

- o Debate on the process this year could well divert attention from the critical substantive debate on the budget itself.

- o The Committee is convinced that the deficits projected in the President's Budget are too high; and that it will require all the time and energy there is just to reach agreement on a budget with which the Nation can live.

- o Last year's budget debate was very contentious. This year's battles do not seem likely to reduce the pressures on the budget process. In this environment, opening up the Act for amendment could lead to its being significantly weakened -- even could lead to dismantling the process.

III. Any attempt to change our budget systems should have as its primary goal strengthening the process.

IV. The Committee recommends two temporary changes, to be adopted as part of the budget resolution for FY 1983.

- o Reduce the number of compulsory budget resolutions from two to one. Congress could revise the budget, when and if it seemed appropriate; but this would reduce the extent to which the budget dominates the Congressional calendar; and it might have the salutory effect of encouraging more serious attention to the accuracy and credibility of the numbers in the Spring resolution.

- o Move as far as possible in the direction of an enforceable credit budget; either by including in the resolution a credit budget and creating a point of order against legislation which would cause the credit totals to be exceeded; or by including in the resolution credit totals, and specifying some future point in time at which Congress intends to make binding the credit budgets included in budget resolutions.

V. The Committee Supports Reconciliation

- Reconciliation legislation should be limited to changes in law related to the increases or decreases in spending and/or taxes required by the reconciliation instructions.

- Reconciliation is a necessary action enforcing mechanism. Without reconciliation Congress would be unable to change spending and taxes to meet overall fiscal policy. This is particularly true of changes in entitlement legislation.

VI. The Committee is opposed to Constitutional amendments to limit spending and/or taxes and to require balanced Federal budgets.

- The Committee is convinced they would not work, that they would encourage "creative accounting" to comply with the letter of the law without necessarily changing the role of the Federal government in the economy.

- The amendments we have reviewed attempt to control spending by controlling outlays. This is like closing the barn door after the horse has escaped. Realistic long term control requires processes which address the problem at the point when the tax and spending legislation is enacted.

- The Committee is concerned that activity to promote passage of a Constitutional amendment may create the illusion of having addressed our very real fiscal policy dilemma, and reduce pressure to reach agreement on real solutions now.

VII. The Committee hosted a symposium on proposed changes in the Budget Act and Process in January. We will make copies on the compendium from that meeting available to all Members of Congress.

- Participants in the symposium almost unanimously agreed this is not the year to amend the Budget Act.

- We will further explore the issues and ideas raised at that symposium and make ourselves available to assist however we can to improve and strengthen our budget processes.

TESTIMONY

Don't Try To Amend The Budget Act This Year

Mr. Chairman, I am testifying today on behalf of the Committee for a Responsible Federal Budget.*

Our Committee is concerned for the survival of the Congressional Budget Process.

Let me say, in the beginning, it is not our position that the budget process as we know it is perfect; but we do believe it is the best hope we have to promote responsible fiscal policy in this country.

There will always be differences of opinion about spending and tax priorities; but most informed observers, indeed, most taxpayers, agree we must have a system within which we first agree on aggregate fiscal policy, then decide among competing priorities. The Congressional Budget Process is all that exists to achieve that objective.

There are ways in which we would modify the existing process. We are very aware that many others are anxious to alter our budget systems. But there are no changes so compelling that we would recommend floor consideration of amendments to the Budget Act this year.

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* The Committee for a Responsible Budget is a bipartisan private nonprofit organization formed to support and strengthen the Federal Budget Process.

The Committee is Co-Chaired by Robert N. Giaimo, former Chairman of the House Budget Committee; and Henry Bellmon, formerly Ranking Republican on the Senate Budget Committee. Brock Adams, Roy Ash, James T. McIntyre, Jr., Delwin Clawson, Howard Moskoff, Alan Greenspan, Edmund S. Muskie, John H. Filer, Robert Strauss, James Lynn, Peter G. Peterson, Al Ullman, and Elmer Staats are on the Board of Directors.

The most important goal whenever we consider changes in the Budget Act and process should be a stronger, more effective system. We are convinced there is real danger that opening the Budget Act to amendment this year could have exactly the opposite effect.

The Budget Act now includes provisions which would allow immediate implementation (at least on a temporary basis) of most of the proposals for change that seem to have wide-spread support. §301(b)(2) and §301(a)(7) authorize inclusion in a budget resolution of ". . . any other procedure . . ." and of ". . . such other matter . . ." as may be appropriate to carry out the purposes of the Act.

Debate on the budget process this year could divert attention from the critical substantive debate on the budget battle itself. Our Committee believes -- and there seems to be substantial Congressional consensus -- that the deficits projected in the President's Budget are too high. It will require all the energy and attention Congress can commit to budget matters this year, just to agree on a budget with which the Nation can live.

Temporary Changes in the Budget Process for FY 1983

Stressing once again that we adamantly oppose floor consideration of Budget Act amendments this year, there are two changes in the process which Congress could try on a temporary basis, and which our Committee would support.

First, we support moving to a single compulsory budget resolution each fiscal year. The budget debate has dominated the Congressional calendar to an extraordinary extent in recent years. This would not foreclose Congress' option to consider a subsequent resolution, if that seemed appropriate, sometime later in the fiscal year. (As a practical matter, Congress has revised the second resolution in the Spring, two-thirds of the way through the fiscal year, in FY 1978, FY 1980, FY 1981, and they are going to have to update the FY 1982 resolution this Spring.)

Clearly, Congress can alter the budget when it is convinced of the necessity to do so. And equally clearly a compulsory revision of the resolution in the Fall has not forestalled the need to revisit the budget yet again later in the year. Why, therefore, schedule two resolutions and start adding from there? Why not do the job once, in the Spring, and only revise the budget thereafter if there is a solid case for doing so?

Congress could declare the Spring Budget Resolution to be the resolution for the purposes of §310 of the Act, thus making the totals in the Spring resolution binding. The Act only requires that Congress reaffirm or revise the Spring resolution, on or before September 15. There is nothing in the Act that actually requires a separate second resolution, nor mandates that Congress wait until Fall to reaffirm its decisions in the Spring resolution.

This approach might have the salutory effect of encouraging more serious attention to the accuracy and credibility of the numbers in the Spring resolution.

Until last Fall, Congress may have made mistakes, but we never passed a binding budget resolution within which we knew we could not live and said so when we voted on it.

On the other hand, the Congressional record is full of debate on first budget resolutions to the effect that, "if we cannot live within these totals, we shall have the opportunity to change them when we consider the second resolution in the Fall."

Many of us have said in the past, Congress has an obligation to act on budget resolutions as required under the Act, if only to preserve our own budget process. But let us say now, about budget resolutions with which we cannot live in general -- and about the second resolution for FY 1982 in particular -- neither the budget process, nor Congress, is well served by adopting completely unrealistic budget resolutions.

A sound budget process presupposes credible budgets; and anything which has the effect of causing Congress to give serious thought to the constraints implied by budget resolutions when those resolutions are adopted, would be salutory indeed in our view.

The second change we would support, and which could be implemented on a temporary basis in the FY 1983 budget resolution, would be to move as far as possible in the direction of an enforceable credit budget.

This could be accomplished in either of two ways. The resolution could include a credit budget, and create a point of order against any legislation which would cause the amounts in the credit budget to be exceeded; or the resolution could include a credit budget, but no specific enforcement mechanism (and indicate either in the report or the resolution Congressional intent to make credit totals binding at some specific future point in time).

Clearly, control of credit activity is an issue which must be addressed. The only reason we do not strongly recommend adoption of binding credit totals this year is that we are not certain we have the necessary data to set and enforce realistic totals, nor that we know quite how those totals should be set and enforced.

On the first point, for example, what would one do about setting credit totals that included agricultural credit programs? The amount of activity in these programs is a function of weather conditions all over the world, as well as of crop failures, blight and other factors which effect crop prices and yield. (Credit activity in housing programs is not much different. They fluctuate with the cost of money, with activity in the real estate and constructions industries, and with construction costs.)

The second question, however, may be much more complicated and politically difficult to resolve. If you set a binding ceiling on direct loans, loan guarantees, and insurance, would you limit its effect only to new legislation -- or would you apply it to all existing loan programs as well? Even if you limited the effect of the ceiling to new laws, would you attempt to ration credit activity based on functions of government, to control credit activity on a program by program basis, to somehow ensure that the neediest borrowers got credit first, or simply ration on a first come first serve basis. One thing you cannot do. You cannot effectively control credit activity by attempting to enforce at the aggregate (as budget totals are now enforced). That would trade off agriculture credit against student loans and housing guarantees, and it simply would not work.

Some authorizing statutes already give the Administration authority to limit credit in specific programs to the amounts provided in appropriations acts. There is no entitlement, for instance, to anyone for a small business disaster loan. At least in theory, when we run out of appropriations for these loans each year, we run out of authority to extend further credit. In practice, Administrations have generally requested -- and Congress has usually provided -- sufficient funds to meet the needs of all eligible borrowers who have applied for disaster loans; but there is no compulsion in law to do so. Perhaps a better example of controllable credit activity is the National Direct Student Loan Program. For years, the number and amount of loans in this program has been limited to funds available in annual appropriations acts plus repayments.

Most credit programs, however, behave like entitlements and tax expenditures, i.e., the level of activity and cost is largely determined by the eligibility criteria created in the underlying authorizing statutes. Attempting to control these programs without changing those eligibility criteria could cause the kind of confrontation we have experienced in the food stamp program in recent years: either cut everyone off sometime during the year, or up the ante.

Reconciliation

Our Committee supports reconciliation as a necesssary part of the budget process. We know there have been complaints about the way reconciliation was used last year. Some of those complaints were well-founded. Reconciliation should not be used to enact, nor change, non-budget related provisions of law. On the other hand, a meaningful budget process requires a mechanism for reconciling the total of individual spending and tax decisions with Congressionally determined aggregate fiscal policy.

Last year, and the year before, almost everyone agreed we needed to cut federal spending. There were differences of opinion as to what should be cut, and as to the depth of the cuts, but most everyone agreed we had to do something. We could not have cut as we did (and particularly we could not have cut entitlements such as food stamps, medicaid, and student loans) without an action forcing mechanism.

And reconciliation is an action forcing mechanism. It allows Congress -- not the Budget Committees and not the Administration -- to decide what it wants done. The reconciliation instructions are included in a budget resolution that requires agreement of both Houses. But once Congress agrees on a resolution including reconciliation instructions, it tells Committees to report legislation to increase or decrease spending and/or taxes by specified amounts, and to report that legislation within a specified time. Congress can, of course, dispose of the reported legislation as it chooses. Nothing compels the House, the Senate, nor the conference to accept the recommendations of any Committee.

Reconciliation establishes a set of rules, including time limits and special procedures for debate, to expedite consideration of legislation to accomplish very specific objectives -- once Congress determines those objectives are so compelling as to require the use of this extraordinary procedure.

We are still learning to use the reconciliation process. We may want to consider refinements to help ensure reconciliation legislation is confined to budgetary matters, rather than broad legislation and/or authorizations unrelated to the reconciliation instructions.

Last year's reconciliation bill, for instance, provided authority for the Student Loan Marketing Association (SALLIE MAE) to issue tax exempt bonds. No federal, nor quasi-federal, agency had such authority prior to the reconciliation bill. There were no hearings on the issue. No consideration was given to the possible influence on other similar agencies and their practices. Indeed, many who would have been interested did not know that provision was included in the bill. The reconciliation bill last year substantially changed Federal communications law, and included several other non-budget related provisions.

But there does not seem to be any consensus as to how we could best ensure reconciliation does not reach beyond budgetary boundaries. We, therefore, would urge that you leave well enough alone. Congress has learned to use the reconciliation process through a kind of on-the-job training program. It may not have worked perfectly, but it worked. We are confident the process of evolution will eliminate most of the bugs. And we would not recommend trying to re-write this portion of the Act until there is substantially greater agreement than we sense now as to just what the rewrite ought to say.

Constitutional Amendments

Let us say just a few words about Constitutional Amendments to limit spending or taxes, and/or to require balanced budgets.

We oppose them.

We don't think they will work.

We are concerned that confronted with a Constitutional mandate to balance the budget this year, Congress would simply change the accounting system, move spending off-budget, or in some other fashion comply with the letter of the law, without substantially altering the role of the Federal government in the economy.

We are also concerned that the Constitutional amendments we have reviewed attempt to close the barn door after the horse is long gone. They attempt to control Federal outlays, not obligational authority (Budget Authority); and the only way you will ever really control federal fiscal activity is to exercise control at the point at which the spending or tax legislation is enacted.

Finally, we are concerned that all the discussion of Constitutional amendments to balance the budget may give some the illusion they are dealing with the problem of rampant deficits, and relieve some of the pressure to face the hard decisions which must be made if we are ever to get our fiscal house in order.

Symposium on Proposed Changes in the Budget Act and Process

In closing let me say a few words about the symposium our Committee hosted in January, in Arkansas, on proposed changes in the Congressional budget process.

Some of you have seen the drafts of papers prepared for that meeting. We will provide each Member of Congress with a copy of the compendium.

You will find that the symposium participants almost unanimously agreed with the recommendation of our committee: that you avoid amending the Budget Act this year.

You will also find a broad range of ideas as to how our budget processes can be improved. We hope to further explore some of the ideas and issues raised in Arkansas at another symposium we will host this summer, in studies, and in seminars we hope to conduct around the country.

Please let us know if there is any other way in which we may be helpful to you as you undertake this very important review of the process we exist to support and help strengthen. Thank you.

Mr. LONG. Dr. Schick, go ahead.

STATEMENT OF DR. ALLEN SCHICK, PROFESSOR, SCHOOL OF PUBLIC AFFAIRS, UNIVERSITY OF MARYLAND

Dr. SCHICK. Thank you, Mr. Chairman. I welcome this opportunity to discuss the operation of the congressional budget process. I am not going to get into the issue of whether this is the year in which the budget process and Budget Act should be amended. But I would point out that it seems almost as difficult to amend the Congressional Budget Act of 1974 as it is to amend the U.S. Constitution of 1789.

As a matter of fact, judging from House Joint Resolution 58, and the recent publicity about it, it might be more difficult to amend the Budget Act. Before proceeding, I would request that my entire statement be placed in the record.

Mr. LONG. Without objection, so ordered.

Dr. SCHICK. The budget process launched with so much promise and enthusiasm less than a decade ago is now threatened with paralysis and subversion. Even its basic routines which seemed taken for granted a few years ago seem incapable of carrying the load. One cannot even be sure that Congress will be willing to go through the motions of budget resolutions, crosswalks, scorekeeping reports, reconciliation and other enforcement procedures just for the sake of keeping the process alive.

Let me suggest, though, that neither the problem nor its solution is inherently budgetary in character. The issues that vex Congress today go to the core of its relationship with the executive branch and to the role of the national government in our economic and social life. These are political questions, the most fundamental political questions that America has faced in half a century. And they can be resolved only with political answers, not merely by retrofitting budgetary procedure.

Hardly anyone is satisfied with the current state of affairs. The Federal budget grows in good times. It grows in bad times. It grows when the economy needs stimulation. It grows when the economy needs restraint. Despite policy commitments to the contrary, the public sector accounts for an increasing fraction of the Nation's output. Despite the 1981 budget cuts, deficits in excess of $100 billion a year seem likely under current policy for the next few fiscal years. Worse yet, these deficits will persist even if the economy regains vigor which is unlikely if interest rates do not abate.

The threat to this budget process now comes from two sources: Political stalemate within Congress and between it and the executive branch. Although I cannot map out how this impasse will be broken, I am confident that a solution will be found. One way or another budgets always get done because the cost of protracted conflict are unacceptably high.

Nevertheless, the solution might be one that jettisons or bypasses the budget process and relies instead on other processes working more or less in tandem with party leaderships.

The other threat is more subtle, for though it speaks the language of budget control, is it nothing less than the vitiation of the budget process. I have in mind constitutional constraints on the budgetmaking powers of Congress that would have compelled balanced budgets or limit Federal outlays to a fixed percent of the GNP. These would destroy congressional budgeting either by preventing legislative majorities from working their will or by inducing Congress to devise a whole new generation of off-budget devices. Quite likely, both adverse outcomes would occur with rigid budget controls stimulating the search for new off-budget evasions.

This is not to say that the congressional budget process is a sufficient restraint against spending pressures. The process now in place permits Congress to make just about any budget decision it deems appropriate. But the question which this subcommittee and ultimately the task force and Congress, as a whole, will have to face is as follows. Do the Members of Congress with majority control over the budget, get the outcomes they want and vote for? The record of the recent past suggests strongly that they do not.

In the two most recent completed fiscal years, 1980 and 1981, actual spending and the deficit were tens of billions more than decreed by Congress in its first resolution. I might add that in the current fiscal year 1982 we have de facto adopted the proposal of the gentleman from Connecticut to have a single budget resolution in view of the sham second budget resolution that was approved last fall. In effect, all Congress adopted for fiscal year 1982 was a single budget resolution—the first budget resolution approved last spring by Congress.

So while moving to a single encompassing, enforceable budget resolution is part of the package of reform, in order for a single resolution to work it has to be accompanied by considerable other changes in congressional budget behavior.

Congress, it turns out, makes budget resolutions, not budgets. Unless congressional budget decisions conform more closely than in the recent past to actual spending, the budget process will not provide a firm basis for statutory control.

The changes discussed in my prepared statement are merely fragments of what a revised budget process would be. They would retain essential features of majority control, but strengthen it as an instrument of fiscal discipline. Congress would still be free to make any decisions approved by House and Senate majorities.

But Congress would be held more securely than in the past to these decisions. Now, before itemizing a handful of proposed changes in budget procedure, let me urge that a reconstruction of congressional budget procedure begin with an assessment of how the congressional budget processes work.

I am as guilty as many others in proposing change without first examining the problems that have emerged under the procedures set forth in the 1974 act. Let us begin at square one with an assessment of how things have worked, how appropriations have meshed with authorizations, how authorizations with entitlements, how entitlements with budget resolutions, how scorekeeping with crosswork, how functions with jurisdictions, how Congress with the executive branch.

Mr. LONG. How estimates have related to the truth.

[Laughter.]

Dr. SCHICK. Precisely, Mr. Chairman. We have to develop a factual basis for what has happened. How did a $50 billion deficit grow into $100 billion deficit? How did the determination to hold spending to 18 percent of the GNP swell to 24 percent of the GNP? The difference between 18 and 24 percent in today's economy is about $180 billion.

These are the fundamental first questions that have to be asked, and only if we get answers to them can we begin to put together a workable congressional budget process again, I know—I am as culpable as all the rest. Let me suggest some fragments of a revised budget process.

First, Congress should fix the overall size of the budget before allocating shares among Federal committees. The trick in every budget is to relate the parts to the whole. The current procedure, a budget resolution has two components: Aggregate levels and a distribution of the spending totals among the various functions that comprise the budget. Although the two parts of the resolution have to be arithmetically consistent, I increasingly wonder whether they have to be politically consistent.

It seems easy to cheapshot the budget process. Think or vote one way on the aggregates, then the other way on the functions. This is a particularly attractive tactic because all parts of the resolution are open to amendment at any point prior to adoption. By allowing back and forth voting, the budget process enables Congress to make any change that suits the majority. In effect, the total becomes what the parts add up to.

As a result, Congress can raise the totals as a byproduct of the decision to spend more on particular functions, not because of a determination as to the size or deficit of the Federal Government.

I would suggest a two-step budget process that would require the first vote to be on budget totals and all subsequent decisions to be in conformity with these totals. For the budget process to be reliable, something has to be done about the economic and financial forecasts that drive the budget. It might be said of the 1974 Budget Act that it substituted information for control. Rather than congesting the legislative process with points of order, Congress opted for information about the status of the budget through crosswalks, scorekeeping, cost estimates and the like. Congress did so in the hope that an open and accurate process would make its Members accountable for their actions.

Now, this approach requires accurate forecasts and data. Since 1975, the President's budget has provided 5-year economic assumptions with respect to unemployment and inflation. And with few exceptions, these assumptions have shown that in each subsequent year unemployment will be lower, inflation will be lower than in the preceding year.

During the 1975–81 years, there were 35 Presidential forecasts of future inflation, and an equal number of forecasts of future unemployment. All but four of these showed inflation and unemployment rates to be lower for each year than were forecast for the preceding year.

This pattern suggests systematic bias in the administration's economic forecast. It obviously is difficult for the White House to predict that things will get worse in the future. In looking to an uncertain future, it is tempting to assume that economic policies will work, that economic growth can be managed to produce sustained expansion without inflation; that recovery will not run out of steam at least for the next 5 years or until the next election. With these past assumptions, it is necessary to choose between jobs and inflation. If economic assumptions were merely idle forecasts of future possibilities without any direct bearing on the budget, the Presidential bias and optimism would do little harm.

However, these assumptions form the basis of favorable expectations about the future. With buoyant assumptions, the budget consistently shows that it will be balanced in just a few years. It conveys the message that there is ample room for future tax cuts and program expansion without impeding progress toward a balanced budget. With unrealistic forecasts, the budget wars against its stated objectives.

Let me add, Mr. Chairman, one other aspect. Unrealistic economic assumptions coming from the other end of the avenue prevent Congress from behaving in a fiscally responsible manner. For Congress to be fiscally responsible, it has to challenge the President on these assumptions. This is not an easy or attractive task.

It has to say to the President, that the deficits will be higher. And that interest rates will be higher. Well, when the White House promises Shangri-La, no Congress can win, if it foresees a Dunkirk.

Something has to be done with respect to uncontrollable and indexed expenditures. The congressional budget process is predicated on the notion that when Congress adopts the budget resolution, it decides how much should be spent on each category in the budget. This is not really what happens for most of the Federal budget, however. Congress budgets for many programs such as entitlements merely by estimating the future costs of past decisions. Most entitlements are continued in the budget by nondecision, by doing nothing rather than by reopening past budgets.

And, as we know, many uncontrollables are indexed to the Consumer Price Index or to other measures. As a result, their cost climbs from year to year without any current action by Congress. By the time Congress considers discretionary claims on the budget, most or all of the available increment has been consumed by indexed programs.

If mandatory and indexed entitlements continue to dominate the Federal budget, the political conditions necessary to bring the budget under control will be lacking. Indexed entitlements vest certain interests with rights to payments from the Treasury. It takes great political effort to wrest these rights away from persons entitled to them. Not many political leaders are willing to undertake this battle. For the most part, the entitlements that were scaled down in 1981 like food stamps—I know that technically the Budget Committee does not regard food stamps as an entitlement, but it has all the essential properties of an entitlement—were directed against weak political interests, such as low income families. It is one thing to reduce food stamps for the poor, quite another to take away social security benefits expected by mainstream America.

When indexed entitlements are permitted a preferred claim on the budget, the political burden on those who would redistribute resources simply is too great to bear. Let me mention that we learned something else about entitlements in 1981. We learned that the President cannot confront Congress on the budget and expect consensus on entitlements.

Now, to do something about entitlements, consensus between the two branches, between the two parties, and between the two Houses is essential because if one party, one branch, or one House goes it alone, it is vulnerable to political attack. It is chopped off at the knees, as they say. What we are now learning is that if you go to the mat on the rest of the budget, it becomes horribly difficult to do the things that just about everybody in this town agrees have to be done to bring the budget under control.

Another change would be to limit but use the reconciliation process. At the present time, Congress seems torn between its aversion to the 1981 reconciliation process and its need for a procedure that changes existing law and packages various proposals into a comprehensive measure that can garner majority support. I would endorse the statement made earlier with respect to the political virtues of reconciliation. This is the only type of measure that under the rules of the House can deal legislatively with both revenues and expenditures.

It is the only measure that can, under the rules, deal with both entitlement and appropriations. It is the only measure that can deal with past decisions and future decisions. It is the only device we have for conforming existing law to current budget decisions.

Reconciliation, therefore, seems to be an ideal vehicle for tackling the tax and entitlement issues that now vex the Federal budget and will have to be confronted if an accommodation is to be reached between the President and Congress, and if a serious effort is to be made to curtail future deficits.

Among reconciliation's advantages is its ability to shift the onus for difficult decisions from legislative committees to the budget committees. Committees and their members must be able to export the blame, to point the finger at somebody else if they are to tackle difficult issues such as taxes and social security. The Ways and Means Committee and Finance Committee can claim that they were forced to recommend tax increases or social security reductions by the Budget Committee. Other committees with jurisdiction over entitlements can argue that their hand was forced by congressional budget makers.

This is what happened in 1981 when House and Senate committees bit the bullet and accommodated to reconciliation by reporting changes that they would not have recommended on their own volition.

Mr. Chairman, let me point out that for more than a generation, this is precisely the role that was played by the House Committee on Rules. Everybody in the House was able to export the blame, to point a finger at the Rules Committee for legislation that did not make it to the floor and that the majority might have voted for if it came to the floor, but did not want to be put in that predicament.

I am not going to be the judge as to whether the House is more responsible or effective now that the Rules Committee no longer forcefully plays that role of taking the blame for the rest of the House. But I believe that with respect to the congressional budget process, this is a vital and necessary role for reconciliation.

In my view, if reconciliation were confined to entitlements and revenues, misgivings about its use would quickly subside. Neither discretionary authorizations nor annual appropriations should be ensnared by reconciliation. The principal purpose of reconciliation is to change existing law, not to tie Congress' hands in making new law. Today's problems of budget control are to be found in the inexorable rise of entitlements and in the mismatch between prospective resources and expenditures. These are exactly the types of problems for which reconciliation is suited.

Let me also note the problem which Mr. Giaimo refers to in his statement: "Using reconciliation as a vehicle." Here, I believe, there is a partial, though imperfect, solution. Let me refer to the rule provided earlier this year on the supplemental appropriation bill.

That rule, although it addressed legislation before the House, in effect, limited the ability of the Senate to use an urgent supplemental appropriation bill as a vehicle. It stated that if the Senate-passed bill went beyond the matters in the House bill, then the conference report would not be made in order under the rule.

This is a procedure which can be extended to other classes of legislation such as reconciliation. It sends the Senate a powerful message in advance that it will not allow House-passed legislation to be used as a vehicle for nongermane matters. The Senate would have to recognize that it would lose its advantage in the conference. Under the present arrangement, however, the Senate sees only advantages in the conference when it loads legislation with nongermane matters.

Mr. LONG. I suspect a study as to what has happened over the years as a result of Senate additions to legislation where this warning was not given, where they got away with it, would be a very revealing study with respect to many of the things that have moved us away from a more conservative, substantive approach to many of these problems we face now.

Dr. SCHICK. Mr. Chairman, let me suggest that it would be revealing in ways that we may not want to have revealed. It may, for example, indicate to us that there was a fifth column in the House which encouraged the other Chamber to add things which under the more restrictive deliberations of the House could not make it through. So that is one of the things which might be disclosed by the kind of study which I believe should be undertaken.

Mr. LONG. I did not want to make it in quite that depth. [Laughter.]

Dr. SCHICK. One of the reasons why I like to export blame is because there is enough to be shared by all. Finally, should Congress shift to a 2-year budget cycle? There appears to be renewed support for a biennial cycle in lieu of the annual budget process. This interest is, I believe, a byproduct of the grueling, frustrating budget processes that have dominated Congress in recent years. Budgeting has become a year-round activity crowding out other legislative interests and forcing Members to consider legislation solely in financial terms rather than on the substantive merits.

Members want relief from the incessant demands of budgeting. It could also be that biennial budgeting will enable Congress to conduct more responsible and sustained oversight. With financial matters nailed down for 2 years committees might be able to undertake careful review of agency performance and program results.

Perhaps the greatest gain would occur in the executive branch where the annual budget now consumes many millions of work days and diverts Government officials from other important concerns.

Yet, biennial budgeting might be nothing more than today's budget practices stretched over a 2-year frame.

If this is all that happens, budget reliability might deteriorate even more without generating additional oversight. Imagine Congress operating a biennial process with the Presidential forecasts issued 14 months ago? Recall that merely a year ago, the official predictions were for a strong economic upturn and for a disappearing deficit. A 2-year budgeting coupled with unreliable forecasts might invite more budgetary escapism than this town has ever seen.

If a biennial budget is to be seriously considered, attention must be redirected from its purported advantages to how it can be made to work. Among the key questions are the following: How can a biennial budget be enforced? How are periodic adjustments to be made without destroying the process? How are appropriations and authorizations to work with one another? Can biennial budgeting coexist with annual authorizations?

A full consideration of these and other issues is beyond the scope of my testimony. Suffice it to note that a world in which neither politics nor economics can be made to stand still is not a world safe for biennial budgets. Thank you, Mr. Chairman.

[Dr. Schick's prepared statement follows:]

Statement of Allen Schick
Before the
Subcommittee on the Legislative Process
House Committee on Rules
March 24, 1982

Mr. Chairman, I welcome this opportunity to discuss the use of the congressional budget process as an instrument of legislative oversight. This issue requires a broad consideration of the budget process, including means of making it more effective. Quite obviously, if the budget process is not working or cannot survive, it cannot be used to further congressional monitoring and evaluation of executive performance. I shall argue that oversight should not be the principal objective in seeking improvement of the budget process; it can be but one of the factors that merit consideration.

I need not call your attention to the timeliness of this issue. The budget process, launched with so much promise and enthusiasm less than a decade ago, is threatened with paralysis and subversion. Even its basic routines which seemed taken for granted a few years ago seem incapable of carrying the load. One cannot even be sure that Congress will be willing to go through the motions of budget resolutions, crosswalks and scorekeeping reports, reconciliation and other enforcement procedures, just for the sake of keeping the process alive. Let me suggest, however, that neither the problem nor its solution is inherently budgetary in character. The issues that vex Congress today go to the core of its relationship with the executive branch and to the role of the national government in our economic and social life. These are political questions--the most fundamental that America has faced in half a century, and they can be resolved with political answers, not by retrofitting budgetary procedures.

The Oversight Problem

The budget has long been regarded as the ultimate weapon for legislative oversight. It has been an underutilized weapon, never quite performing according to the expectations of those who saw it as a means of calling executive agencies to account for their performance of legislatively-prescribed tasks. But there was always a convincing excuse of the failure of the budget process to fulfill its oversight role. When the federal budget was growing and incremental resources were abundant, it was hard to evaluate how well agencies were performing with the funds already provided to them. With fresh money available for expansion, the budget conveniently focused on incremental claims, and gave short shrift to the difficult job of assessing program and managerial effectiveness. There was a weak incentive, if any, for congressional committees and public agencies to look back to what was expected and what was accomplished. Budget-making was oriented to larger purposes of future objectives, new programs, great expectations. If some funds were insufficiently used or some programs ineffective, there was little cause for alarm. A bountiful economy would provide the wherewithal for doing good, even though some billions were being dissipated.

Well, the economy is no longer as elastic as it once was, and incremental resources no longer as abundant. Instead of growth, the federal budget is oriented to cutbacks. As Members of Congress well know, hundreds of programs were curtailed in real size last year, and tens of billions of dollars were pruned from the budget. Yet looking back at that experience, we are forced to conclude that decrementalism is no more effective an incentive for oversight than incrementalism was in its heyday. Budget-cutting was a frenetic exercise, conducted under unrelenting pressure from the White House and the press of congressional budget deadlines. Perhaps 1981 was an aberration that proved only the extraordinary effect of presidential skills on legislative behavior. I think not. I take as one of the lessons of 1981 that decremental budgeting is not the golden opportunity for legislative oversight that observers have longed for. Decremental budgeting is "cut as cut can", sparing indexed entitlements because they have a special niche in law and wreaking havoc on labor-intensive agencies that are most vulnerable to resource constraints. In assessing the oversight-capabilities of budgeting, it is worthwhile to inquire why employment offices had to dismiss employees during a time that the unemployment lines were lengthening; why national parks are in a state of disrepair; why mines aren't adequately inspected; why the Coast Guard and the Weather Service have been threatened with the necessity of closing offices; why agencies such as the Federal Aviation Administration have notified their employees that they will be furloughed.

These are not the most controversial federal agencies and programs, nor are they the underdeveloped products of the Great Society. I am not aware that they have reputations for being among the most mismanaged on the federal organization chart, nor am I aware of extensive legislative hearings leading to informed decisions to curtail their operations. Rather they are the victims of budget-cutting, and because they are less able than others to cope with attrition in resources, they have been compelled to retrench their operations. They show "cut as cut can" at its indiscriminate worse, and they offer compelling evidence that decrementalism is not a ripe opportunity for careful and responsible oversight.

If the budget cannot be used for oversight in good times and has not (thus far) been used in bad times, what can be said of its potential for encouraging committees to assess the performance of agencies and programs under their jurisdiction? I would offer two comments, one based on last year's events and one deriving from a long-term perspective on budgeting. In 1981, three types of federal programs were curtailed. Labor-intensive operations have alredy been mentioned; the remainder can be divided into "ideological" and "perennial" categories. The ideological cutbacks were inspired by the political preferences of the White House and they include programs such as legal services. The perennials were programs that have been subject to evaluation over the years and found wanting. AMTRAK is in this category, as are some of the economic development programs. For the most part, the evaluations were conducted by think tanks and other outsiders, not by congressional committees. I make no claim that these findings were valid, objective, or universally accepted; only that by the time President Reagan launched his budget-cutting crusade in 1981, a body of opinion concerning these programs had accumulated, and that these opinions had a bearing on budget outcomes. What is remarkable, however, is that there was no direct link between the program evaluations and the budget decisions. The evaluations were made over a period of years, often without any budget objective in mind, and were not plugged into agency budget submissions or congressional budget reviews. Nevertheless, these "academic" findings influenced the 1981 budget debate. They were, as it were, pulled off the shelf and utilized to improve the quality of decisions.

The 1981 experience leads to my second comment: the route from oversight and evaluation to budgets is unstructured and labyrinthian; it cannot be charted or planned in advance. Evaluations intended for the budget often are ignored when budget decisions are made, while some that have been gathering dust for years are unexpectedly brought into play. Despite two decades of budget reform centered around efforts to build plans and analyses into the process, budgeting remains inhospitable to these rationally-organized pursuits. Budgeting is too given to routine to allow the disruptions of the legislative (or executive) evaluation to intrude. It is a pressured, deadline-ridden activity, where decisions have to be taken regardless of the evidence at hand. It is hopelessly opportunistic, as last year's episode amply demonstrated.

If the route from evaluation to budget decision is uncertain, the most productive course would be to sever any rigid link between oversight and budgeting. Perhaps the most that can be expected is that oversight will add to our understanding of how programs work and what can be done to improve them. Over time, some oversight findings might seep into political consciousness and facilitate changes in policy. And in any unusual year, when Congress, by its own will or bent by others, is motivated to make major alterations in budget policy, it might make responsible use of some oversight once conducted but now almost forgotten.

Lest this advice be taken as a prescription for failure or for doing nothing, permit me to mention that the budget is not the only process available to Congress, nor the only opportunity for changing policies. Congress can exercise its basic legislative powers, through the authorizations process or more generally by preparing legislation. It could be that despite its "action-forcing" characteristics, or because of them, the budget process is a less productive or assured consumer of oversight than other legislative processes.

Improving Budget Control

Hardly anyone is satisfied with the current state of affairs. The federal budget grows in good times and bad, when the economy needs stimulation and when it needs restraint. Despite policy commitments to the contrary, the public sector accounts for an increasing fraction of the nation's output. Despite the 1981 budget cuts, deficits in excess of $100 billion seem likely for the current and next fiscal years. Worse yet, these deficits will persist even if the economy regains vigor, which is unlikely if interest rates do not abate.

As I noted at the outset, the congressional budget process is threatened with possible extinction. The threats come from two sources--political stalemate within Congress and between it and the White House. Although I cannot map out how the impasse will be broken, I am confident that a solution will be found. One way or another, budgets always get done because the costs of protracted conflict are unacceptably high. Nevertheless, the solution might be one that jettisons or bypasses the budget process and relies instead on other processes (authorization and appropriation) working more or less in tandem with party leaderships.

The other threat is more subtle, for though it speaks the language of budget control it is nothing less than the vitiation of the budget process. I refer to constitutional constraints on the budget-making powers of Congress, by compelling balanced bugets or by limiting federal outlays to a fixed percent of GNP. These would destroy congressional budgeting either by preventing legislative majorities from working their will or by inducing Congress to devise a whole new generation of off-budget devices. Quite likely both adversities would occur, with rigid budget controls stimulating the search for new off-budget evations.

This is not to say that the congressional budget process is a sufficient restraint against spending pressures. The process now in place permits Congress to make just about any budget decision it deems appropriate. Some early versions of the budget legislation would have serverely restricted the budgetary discretion of Congress. Some proposals would have required extraordinary majorities for adoption of budget resolutions; other would have limited the consideration of floor amendments to raise spending. Some would have bound Congress to the levels in the first resolution; others would have imposed the President's budget on Congress in certain situations. These and other proposed restraints were rejected in the enacted versions. Congress opted for majority rule in 1974. The Budget Act does not ordain or proscribe any particular revenue or spending outcome. What emerges from each year's budget depends on the men and women elected to Congress.

But do the Members of Congress get the budget outcome they want and vote for? The record of the recent past strongly indicates that they don't. In the two most recent completed fiscal years (1980 and 1981) actual spending and the deficit were tens of billions more than decreed by Congress in its first resolution. In both years, the federal budget claimed a much larger slice of GNP than Congress originally aimed for. Congress, it turns out, makes budget resolutions, not budgets. Unless congressional budget decisions conform more closely than in the recent past to actual spending, the budget process will not provide a firm basis for statutory control. The changes discussed below would retain the essential features of the budget process but strengthen it as an instrument of fiscal control. Congress would still be free to make any decisions approved by House and Senate majorities, but Congress and expenditures would be held more securely than in the past to these decisions.

Congress should fix the overall size of the budget before allocating shares among federal committees. A budget resolution has two basic components: (1) Aggregate levels of revenues, expenditures, and debt, and (2) a distribution of the spending totals among the various functions (such as national defense, agriculture, and energy) that comprise the budget. The two parts of the resolution have to be arithmetically consistent, but the House and Senate do not have a prearranged order for voting on them. All parts of the resolution are open to amendment at any point prior to adoption. By allowing back-and-forth voting, the budget process enables Congress to make any change that suits the majority. As a result, Congress can raise the totals as a by-product of its decisions to spend more on particular functions, not because of a predetermination of the size of the federal government. Changing the totals becomes a matter of convenience or necessity, not a forthright decision on the fraction of the nation's resources that should be spent in the budget.

When the 1974 Budget Act was developed, careful consideration was given to a proposed "rule of consistency" that would have excluded any floor amendment that violated the internal consistency of a budget resolution. However this proposal was rejected because it would have limited floor amendments. The enacted version has a consistency requirement for final passage but not for individual amendments. At various times, Republicans in Congress have campaigned for a two-step budget process that would require the first vote to be on budget totals and all subsequent decisions to be in conformity with the adopted totals.

The two-step procedure would be more than a mechanical wrinkle. It would compel Congress to consider budget totals in terms of the condition of the economy and the overall needs of the federal government. More importantly, if the totals were fixed at the start of the process, Congress would have to make various claims on the budget compete for limited resources. Under the present arrangement, Congress can avoid this type of competition by adding funds to favored functions.

In order for a vote on the totals to be a real decision and not just another empty gesture that Congress makes from time to time to show its concern over the size of the budget or the deficit, it is essential that the decision not be easily reversible. If the totals could be altered by majority vote after Congress is done with the functions, the first vote would be wishful thinking. But it would be unwise to preclude any change in the totals after they have been voted upon. The budget process might be modified to permit adjustments to the totals by an extraordinary majority.

The accuracy of economic and budget forecasts should be improved. It might be said of the 1974 Budget Act that it substituted information for control. Rather than congesting the legislative process with endless points of order (such as might have ensued if the original proposals were enacted), Congress opted for information about the status of the budget. It did so in the hope that an open and accurate process would make Members accountable for their actions.

Of course, this approach requires accurate forecasts and data. Since 1975, the President's budget has provided 5-year economic assumptions. With few exceptions, the budget has assumed sustained economic improvement, with unemployment and inflation projected to decline in each year covered by the forecast. During the 1975-81 years, there have been 35 presidential forecasts of future-year inflation, and an equal number of forecasts of future unemployment rates. All but four of the projected inflation and unemployment rates were lower than those forecast for the immediately preceding year.

This pattern suggests a systematic bias in the Administration's economic forecasts. It obviously is difficult for the White House to predict that things will get worse in the future. In looking ahead to an uncertain future, it is tempting to assume that economic policies will work, that economic growth can be managed to produce sustained expansion without inflation, that recoveries will not run out of steam--at least not for the next five years, and that it will not be necessary to choose between jobs and inflation. If economic assumptions merely were idle forecasts of future possibilities, without any direct bearing on budget policy, presidential optimism would do little harm. However, these assumptions form the basis of favorable expectations about the future. With buoyant assumptions, the budget consistently shows that it will be balanced in just a few years. It also conveys the message that there is ample room for future tax cuts and program expansion without impeding progress toward a balanced budget. With unrealistic forecasts, the budget wars against its stated objectives.

The estimation bias has contributed to the upward creep in the relative size of the federal government. The budget regularly shows future expenditures declining as a percentage of GNP while actual spending has moved in the opposite direction. For example, the fiscal 1979 budget projected that federal outlays would decline to 20.6 percent of GNP in fiscal 1981. Actual outlays for the 1981 fiscal year, however, exceeded 23 percent of GNP. The difference between the forecast and the results was more than $70 billion in expenditures.

With federal budgets predicting an imminent shrinkage in the relative size of the federal government, it is easy to take the position that budget controls are adequate and that no restraints should be imposed on the budget-making powers of Congress. When the predictions fail to materialize, it usually is too late to take corrective action.

If multiyear projections are to be used by Congress and the President to make budget decisions, it is essential that they be based on realistic, achievable assumptions. It would be better to make do without official projections than to use ones that mislead Congress by promising a future that is not likely to occur.

Some states and localities have tried to take politics out of revenue estimation by vesting the function in a nonpartisan board of experts or by basing the budget on a range of estimates. The Congressional Budget Office prepares its own economic forecasts each year, and while these have been unduly optimistic, they have been closer to the mark than those emanating from the executive branch. It might be sensible to switch from a single set of forecasts to a range of estimates. With "worst case" forecasts published in the budget, the White House and Congress might be deterred from taking actions that would add to future deficits or push the size of the federal government above the targeted level.

Uncontrollable and Indexed Expenditures. The congressional budget process is predicated on the notion that when Congress adopts a budget resolution, it decides how much should be spent on each category in the budget. This is not really what happens for much of the federal budget, however. Congress budgets for many programs such as entitlements merely by estimating the future cost of past decisions. Most entitlements are continued in the budget by "nondecision," by not reopening past decisions.

These types of programs often are labeled as "uncontrollable". This does not mean that Congress is without power to determine how much should be spent for them. It can terminate or curtail these programs by changing the laws that dictate their expenditures. But Congress cannot fix their spending level by budgetary action alone. Regardless of the amounts budgeted for them, expenditures are determined by old laws, not by new budgets.

Many uncontrollables are indexed to the consumer price index or to other measures. As a result, their cost climbs from year to year without any current action by Congress. By the time it considers discretionary claims, most of the available increment has been consumed by indexed programs.

The reconciliation procedures implemented by Congress in 1980 and 1981 provide means for controlling these expenditures through the budget process. Reconciliation enables Congress to conform existing law to current budget decisions. It can force committees to report changes in existing law, thereby taking away the "do nothing" option that plagued past attempts at budget control.

Although it has enabled Congress to rollback billions of dollars in entitlements, reconciliation is an inadequate remedy. For one thing, it is unlikely that reconciliation will be applied in the future on the scale that it was implemented in 1981. The bruising, exhausting battles that roiled Congress for more than half a year cannot be often repeated. Congress has little tolerance for the conflicts and tensions of a free-wheeling reconciliation exercise. Nor is it likely to long tolerate the concentration of power in the House and Senate budget committees and the downgrading of the appropriations and authorizations committees. It is unrealistic to expect Congress to write so much law and so many changes in a single measure. Reconciliation, in the expanded form implemented under pressure from the Reagan White House, cannot be a process for all legislative seasons.

I shall say more about reconciliation shortly; it suffices for now to note that the 1981 budget battle displayed the short-term strengths and the long-term limitations of reconciliation.

If mandatory and indexed entitlements continue to dominate federal budgeting, the political conditions necessary to bring the budget under control will be lacking. Indexed entitlements vest certain interests with rights to payments from the treasury. It takes great political effort to wrest these rights away from the persons entitled to them. Not many political leaders are willing to undertake this battle. For the most part, the entitlements that were scaled down in 1981 went to weak political interests such as low-income families. It is one thing to reduce food stamps for the poor; quite another to take away social security benefits expected by mainstream America. When indexed entitlements are permitted a preferred claim on the budget, the political burden on those who would redistribute resources simply is too great to bear.

Yet it would be unrealistic to do away with all entitlements or all "uncontrollables". Budget control is not the only value sought by a pluralistic society. Stability and the peaceful resolution of conflict also are important, and these often get in the way of budget control.

It is important for workers to have assurances with respect to the pensions they will receive after retirement, and for bond-holders to be confident that they will be paid by the government. But although the federal government must abide by an abrogation of budget control, it should not accept indexation as standard procedure. Indexation strips from Congress the ability to allocate incremental resources among the various claims on the budget. Without this ability, no budget can effectively controlled.

Limiting the Reconciliation Process. At the present time, Congress seems torn between its aversion of the 1981 reconciliation process and its need for a procedure that (a) changes existing laws and (b) packages various proposals into a comprehensive measure that can garner majority support. What Congress needs is what reconciliation can do. Whether called reconciliation or some other name, Congress needs a procedure that forces action on difficult matters and that cannot be disposed of by budgetary action alone. Reconciliation seems to be an ideal vehicle for tackling the tax and entitlement issues that now vex the federal budget and that will have to be confronted if an accommodation is to be reached by the President and Congress and if a serious effort is to be made to curtail future deficits.

Among reconciliation's advantges is its ability to shift the onus for difficult decisions from legislative committees to the budget committees. Committees and their Members must be able to "export the blame" if they are to tackle difficult issues such as taxes and social security. The Ways and Means and Finance Committees can claim that they were forced to recommend tax increases or social security reductions by the budget committees. Similarly, other committees with jurisdiction over entitlements can argue that their hand was forced by congressional budgetmakers. This is what happened in 1981 when House and Senate committees accommodated to reconciliation by reporting changes that they would not have recommended on their own volition. For more than a generation, this

Committee played a similar role in the legislative process. Whatever was awry in those good old days, at least the House had a shelter--the Rule Committee--for avoiding difficult floor fights. Every collegial institution needs protection of this sort. Properly used, reconciliation can provide the necessary protection for the contentious issues that must be faced if the budget is to be controlled.

In my view, if reconciliation were confined to entitlements and revenues, misgivings about its use would quickly subside. Neither discretionary authorizations nor annual appropriations should be ensnared by reconciliation. The principal purpose of reconciliation is to change existing law, not to tie Congress' hands in making new law. Today's problems of budget control are to be found in the inexorable rise of entitlements and in the mismatch between prospective resources and expenditures. These are exactly the type of problems for which reconciliation is suited.

Should Congress shift to a two-year budget cycle? There appears to be renewed support in Congress for a biennial cycle in lieu of the annual budget process. This interest is, I believe, a byproduct of the grueling, frustrating budget processes that have dominated Congress in recent years. Budgeting has become a year round activity, crowding out other legislative interests and forcing Members to consider legislation in financial rather than substantive terms. Members want relief from the incessant demands of budgeting.

It is also suggested that biennial budgeting will enable Congress to conduct more responsible and sustained oversight. With financial matters nailed down for two years, committees would be able to undertake careful reviews of agency performance and program results.

Perhaps the greatest gain would occur in the executive branch where the annual cycle now consumes many millions of workdays and diverts government officials from other important concerns.

Yet, biennial budgeting might be nothing more than today's budget practices stretched over a two-year frame. If this is all that happens, budget reliability might deteriorate even more without generating more oversight. Imagine Congress operating a biennial process with the presidential forecasts issued in 1981. Recall that barely a year ago, the official predictions were for a strong economic upturn and for a disappearing deficit. Two-year budgeting coupled to unreliable forecasts might invite more budgetary escapism that this town has ever seen.

If biennial budgeting is to be seriously considered, attention must be redirected from its purported advantages to how it can be made to work. The two key questions are: How can a biennial budget be enforced? and How are periodic adjustments to be made without destroying the concept? A full consideration of these issues is beyond the scope of my testimony; it suffices to note that a world in which neither politics nor economics can be made to stand still is not a world safe for biennial budgets.

Mr. **Long**. Thank you, Dr. Schick. Chairman Beilenson?

Mr. **Beilenson**. I don't have any questions.

Mr. **Long**. Mr. Frost?

Mr. **Frost**. No questions.

Mr. **Long**. How about some comment from you, Mr. Giaimo?

Mr. **Giaimo**. You want to be a little more specific?

Mr. **Long**. Particularly the budget end of it, particularly the long-range forecasting. What could be done? What could be done to assure ourselves of more reliability with respect to the forecasts that are made? A related question is obviously—does not a 2-year authorization and 2-year budgeting process, as Dr. Schick said, enhance the possibility of very substantial error and does that, in turn, offset the advantage of having more time for oversight?

Mr. **Giaimo**. Well, I agree with what Dr. Schick said of not being in favor of biennial budgeting. It sounds attractive. First of all, as you know, the budget periods are agony. Agony, indeed, and they are getting even worse, and doing them twice a year, and we are suggesting try to do it once a year, and now the suggestion let's do it every 2 years would sound appealing to Members of Congress.

But if I remember what Dr. Schick said, he said it would further enable people to obviate or escape from under the budgetary constraints. I am afraid that would happen, and anything that does that I am opposed to because you are either going to have to have a budget discipline which frankly Congress doesn't really want, but which it feels it must have. You are either going to have one or get rid of it. Now, if you make it easier for the committees to avoid it and to avoid its disciplines, I think you would have to get into what Dr. Schick mentioned about what would you do with appropriations?

Would they be on a 2-year basis? I think whatever you do, I have a feeling that those should go in step. I would be hesitant to suggest a 2-year budget until you look at what it would do to efforts to avoid the budgetary discipline.

Now, in the area of economic assumption, we are not too good on economic assumptions, we being all of us in the country. We are not too good on 1-year assumptions, let alone 2-year assumptions. So if you look at the assumption picture, the history of it for the last 5 or 6 years, and you look at what the assumptions were 3 years out, it sort of staggers you.

But I am not so sure that we can deal with longer periods of time. It would be possible to get on to a biennial system, but I have a feeling that when you do that, you are going to have to do that to everything in the Congress. That might not be a bad idea, but that would also mean that Congress would have to go home for that part of that 2 years. I will not comment on that.

Mr. **Long**. I was struck by Dr. Schick's idea, Bob, that perhaps now is the time to make a detailed study as to what has actually happened under the budget processes these last few years. Do you share my view that this might be a way for this task force Mr. Beilenson is heading to first approach the problem?

Mr. **Giaimo**. Well, what would it do? I mean I am gun shy of studies. The times call for action. What would the study tell us that we do not already know?

Mr. LONG. Well, it would tell us which were the more unreliable estimates upon which we have acted. It would tell us how far off those estimates actually were. It would perhaps give us some guidance as to the difference in the approach between the executive branch and the congressional branch.

The question is, What would be learned from the answers, if we knew them?

Dr. SCHICK. Let me just make a comment. The main reason why I suggest beginning with a broad investigation is to avoid a situation where we improve the congressional budget process by changing only the things labeled "budget." In my view, an investigation would show that the effectiveness of the budget process relates to what is happening with respect to authorizations, appropriations, the revenue committees, the entitlement committees of Congress as well as other legislative operations. The purpose of a comprehensive study would be to blow up the framework so that it considers all the mechanisms by which Congress makes financial decisions, not merely the budget resolutions.

Mr. GIAIMO. The only problem I have with studies is that this whole process is rather confusing. And to make it further confusing for the laymen and the public which after all has to support or give approval or disapproval for what Congressmen are doing, that is the whole purpose of the discipline, I suspect.

It makes it more difficult for them to follow, if you will. I feel sorry for the public that reads in the newspapers last July, I guess it was, that the budget victory was won. And then they found themselves back fighting the victory in the fall. And they thought again that they had won.

And then the week before Christmas and again, they thought they had won. I wonder how many people in the public realize that right now you are spending moneys via the appropriation bill, busting the daylights out of those ceilings that were adopted last fall? I wonder how many of them realize that, in fact, that the battle was lost in fiscal year 1982? That a budget deficit which should have been—which the President claimed how much—$40-some-odd billion—is going to be close to $100 billion?

Dr. SCHICK. I have just one footnote to that. Strike the word "public" and put in "Member."

Mr. LONG. That's right.

Dr. SCHICK. I recall confused Members asking, did we not vote on this issue three or four times already? Why is this matter coming before the House again? Confusion about congressional budgeting pervades Capitol Hill as much as it does the rest of the country.

Mr. GIAIMO. Exactly. And when you have that kind of confusion in a process, it is easy to bury—or it is easier to bury that process. That is what I am afraid of. And I happen to think that you need this process. I think this gets back to the basic question that has been so clearly enunciated by your own chairman. Can Congress—is Congress capable of governing the Nation's affairs? It is a serious question. Is Congress capable of doing it?

If you are not capable—if Congress is not capable of making these tough decisions which they cannot be much tougher in the domestic area than the one they are faced with right now, then what is it capable of doing?

Now, if your study is going to further confuse and obfuscate, then I am not for it. It is pretty well known that the art of estimating in the future is a pretty tenuous one. You read all of the—CBO has a pretty good record. I think CBO has a better record than anyone on it, as a matter of fact.

Mr. LONG. I think you are probably right.

Mr. GIAIMO. But my God, who could have anticipated 6 months ago what was going to happen to gasoline prices today?

Mr. LONG. And a similar situation 4 years ago, in reverse?

Mr. GIAIMO. And in reverse, 4 years ago exactly where it went up to $32 a barrel from $14 or whatever it was. Or the big swing which the President reflects in his budget in an additional—what is it—$5 billion or $5.6 billion for commodities credit payments. Now, those are the realities of the marketplace, the weather, and other acts of God and what have you.

I think you do the best you can. You are never going to get economic assumptions which are that precise. Look at the assumption which was made this year on supply-side economics, the assumption that it was going to unleash this pent-up demand on the part of the American investing public when, in fact, it really has not?

Mr. LONG. And giving the devil his due, looking at the other side of it, who could have predicted 4 or 5 months ago what was going to happen, temporary though it might be, with respect to inflation?

Mr. GIAIMO. Inflation, exactly.

Dr. SCHICK. I am not worried about forecasting error. I am worried about forecasting bias. That occurs when the error is so consistently in one direction year after year. This pattern suggests that the error is not merely due to uncertainty about the future. It is uncertainty laced with political considerations.

Mr. GIAIMO. Exactly. Remember always that there are political incentives that compel all of us to take a rosier view and to have a rosier estimate on employment, on inflation, on everything.

Mr. LONG. We go around with little yellow signs everywhere that say smile.

Mr. GIAIMO. Could I raise one question?

Mr. LONG. Sure.

Mr. GIAIMO. That Allen Schick testified to, dealing with the reconciliation bill, and which is of some concern to us and to our committee, and that is if you limit reconciliation of direct spending entitlements and revenues, as you know, Allen, in fact you mentioned it, there are some programs like food stamps, disaster loans, and all that do not meet that definition because technically they are authorizations, but they do work like entitlements, and they should be subject to inclusion on your reconciliation package.

So when you look at that, if you are going to exclude authorizations, be sure that you do not exclude those which while they are technically or actually authorizations, in fact, are entitlements.

Dr. SCHICK. This is a simple test that can be applied as follows: To affect the level of spending, we have to change existing law. To affect the level of appropriations, we have to change the existing law.

Ms. COX. You do not in the case of food stamps nor in the case of disaster loans.

Dr. SCHICK. You would have to in both.

Ms. Cox. No; you do not.

Dr. Schick. You would have to, in my judgment.

Mr. Long. I suggest that the committee look into it and get the expertise of these two people. Is there anything else? Gentlemen, thank you very kindly. We are very appreciative. You have offered a great deal. The subcommittee stands adjourned.

[Whereupon, at 3:50 p.m., the hearing was adjourned.]

CONGRESSIONAL OVERSIGHT OF FEDERAL PROGRAMS

WEDNESDAY, APRIL 21, 1982

House of Representatives,
Subcommittee on the Legislative Process,
Committee on Rules,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m., in room H-313, the Capitol, Hon. Gillis W. Long (chairman of the subcommittee) presiding.

Present: Representatives Derrick and Frost.

Mr. Long. The subcommittee will come to order. Today is one of a series of hearings in which this subcommittee examines congressional oversight, a central part of the legislative process. It is one that is going to become increasingly important in view of the budgetary implications of the reconciliation bill of last year.

Our first witness is a diligent congressional watchdog, Hon. Pat Schroeder of Colorado, who has shared many valuable insights with this subcommittee. She asked to be invited specifically today to testify about the staff report issued by the Subcommittee on Civil Service which she chairs.

Before Congresswoman Schroeder begins, I would also like to introduce our other distinguished witness, Hon. Charles Bowsher, the Comptroller General of the United States. It is Mr. Bowsher's first appearance before the Committee on Rules, and we are exceedingly pleased to welcome you here also, Mr. Bowsher.

Mrs. Schroeder, would you please proceed in your own inimitable fashion.

STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADC

Mrs. Schroeder. Thank you, Chairman Long, and I really want to congratulate you and the subcommittee members that are looking at this. You do not get a lot of points for looking at how the legislative procedures work. You really don't, and yet it is probably the most important work that we do around here. And yct the media junkies, you know, will duck the issue so I appreciate your hard work.

I think if we had broad public consensus on every issue, there would not be any need for you to meet because it would all work out and it would work very well.

Unfortunately, we just came from a meeting where we see we don't have broad public consensus on budgets and we don't have broad public consensus on all sorts of things. What you are looking at is absolutely critical. The shutdown of last November 23, 1981, is a good example of another cost of the disagreement and another cost of what happens when everything kind of unravels. I chair the Subcommittee on Civil Service and asked the staff to please do some kind of an estimate as to what is the shutdown cost. You have, I think, a copy of the report in front of you. It is a big, big long one, and I thought basically I would just summarize a bit. The methodology, of course, is always an interesting one.

[The report may be found in the subcommittee file.]

People look at different methodologies and try to come up with different figures. One of our big problems in trying to find out the accurate costs, to be very honest, is that most agencies or many agencies did not keep very good records on it. It was an extraordinary event, and they did not really have a line in the ledger for that. Verification of our estimates, I think we would admit, is almost impossible.

The General Accounting Office came up with a much lower figure, and I am sure you are going to wonder why the two are at such variance. I guess the real bottom line is no matter which figure you take, millions of dollars were wasted, and that is the beginning.

But if we look at why our estimate is probably a lot different than that of the General Accounting Office, I think you will find we spent a lot more time trying to get to the bottom of the problem. Our report took much longer to come out with, and we tended not to feed the staff. We made them lean and mean and locked them in there, and told them to keep going back to the telephone and call one more time, harass them a little more.

What we tried to do was get hold of all the different agencies that have 50 employees or more, which took a phenomenal amount of time, and send them all a questionnaire. Obviously a lot of them did not come back, and a lot of them came back with responses that were relatively useless. So we put the staff back on the phone and had them go through further investigatory procedures, and the report really is not the most scientific in the whole world.

As you know, we came up with an estimate of over $80 million for the cost of the 1-day shutdown. First, we looked at what the costs were for designating essential and nonessential employees, how much time, how many meetings, how many memos, how many payroll adjustments there had to be, and so forth. Based on governmentwide averages, we calculated it came out to about $9.08 per nonessential employee. That was the kind of administrative costs that went into all the hassle. And as I say, that came from looking at different peoples' records over and over and over.

Then, we tried to estimate the cost of paying salaries to those employees who were sent home for a portion of the day. Now, originally it was construed that the shutdown was going to save money. It was involuntary furlough, and they weren't going to get paid. However, because of the colloquy in the Senate the next day on the 24th, they were all paid. It was a time of administrative leave. So you ended up paying people who went home, who did not do any work, and so forth, so that all comes in, and we came out with that cost estimate, and that came out to about $9 million.

So you had $9 million paid out for which we got nothing. Then, all the people who were deemed nonessential, we also cranked that in, and being nonessential, had they decided to do an involuntary furlough, the agencies would still have had to pay them because there is a law saying you cannot volunteer to work for the Federal Government in your job. So that is all a different thing.

All the agencies responded in different ways. A very interesting thing was how agencies broke out who was essential and who was nonessential. DOD decided everybody was essential. The movie projectionists were essential. Everything was essential in DOD. Others had 20 to 25 percent being essential. Some went as low as zero to 5 percent being essential. They had all sorts of different variances, and really in all honesty, the law was not followed very strictly.

Some agencies took it much more seriously than others, but it really appears that if you took most agencies that followed the law to the letter, it would be about 10 percent of Federal employees that you would say were defending life, liberty, national security, and so forth.

And then we went into the unusual costs that go to the central agencies of Government such as the Office of Management and Budget, the Office of Personnel Management, the General Services Administration, the Executive Office of the President and all those that were deemed involved. And the staff estimated—you can imagine how much time it took those offices to hassle all on account of the shutdown.

Now, our report came up with over $80 million. GAO came up with $8.1 million. I think the variance can be explained in a number of different ways. GAO acknowledged that many of the agencies they talked to did not break out the cost of the furloughs. Their report also came out December 10, and from our experience, unless GAO got a whole lot better data real fast than we got, on December 10, we were just beginning to scratch the surface because the initial attitudes were, you know, "give them some information, and maybe they will go away."

Let's not get into this in too much detail. But that was only 2 weeks thereafter. For example, Interior did not give GAO any estimates for their costs. We kept working with the Interior staff and finally came up with $2.3 million that was paid time for employees who didn't even work. So that $2.3 million just from one agency obviously was not part of GAO's estimate as far as we can tell. But again, as I say, I am not really sure how relevant all of that is because you really come down to the conclusion that the event cost an awful lot of money. And I have also gotten a lot of criticism from other Members for another piece that we didn't even consider. For instance, the NASA people said to turn the program on and off cost $1 million for that 1 day. People who were trying to deliver—United Parcel Service said it cost them a fortune because they would show up with all the mail for agencies and no one could receive it.

And all the different people who had contracts could not carry them out. So I don't even know how you get to that. I don't know how you ever get to the productivity issues in all this. You can imagine how many résumés got typed, and how many people were on phones trying to find other jobs, and all those kinds of things you can't even detail.

If you will look at the current interpretation of the law, there are only three types of activities that can be performed: National security and foreign relations fall in one category. Those that come out of trust funds and are multiyear appropriations, and so forth, are a second. And then, third, the essential conduct to protect life and property. And as I say, if you do that, essential employees make up only about 10 percent of the workforce or somewhere around there. But every agency dealt with the situation very differently.

The real issue becomes what do we do. And we have Congressman Hoyer who has introduced an interesting bill that says that you cannot stop the pay of employees during these periods. What we are grappling with is what we do to make this body perform at times when we do get into these real big hangups with two very different approaches and cannot reach a consensus.

This is a real action-forcing mechanism. I mean the action-forcing mechanism is you shut down Government. But I guess the real question I have about it is: Why are the people who get harmed the ones who were not able to bring action about? They are Federal employees, and they are not at the table trying to push the action. So we are really harming the wrong people. And some of the people do not see this as a stick but more conservative Members might see this as a giant carrot.

So the system operates. While it is an action-forcing mechanism, it really is not directly related, and it probably does not force the best kind of action, as we have seen. And yet I am not sure I am saying that paying everybody forever and ever really solves it either.

So here I am saying this certainly is a problem for which I do not really have an answer. Such theatrics are very, very expensive no matter whose estimates you use. I think that is part of why the American public is very turned off by watching all this, and I must say as we go through the budget process, we are beginning to see the same kind of thing unravel when nobody can compromise. So shutting down is wasteful. There is no question about that.

It may be theatrical but wasteful, and it also hurts people who really are not involved in the process and can do nothing about it. This action-forcing mechanism has really been off the mark. I appreciate being able to come, and I hope everybody can look at the report. And I think it only emphasizes how very, very important the work of your subcommittee is in trying to find out what we can do in getting legislative procedures worked up.

[Mrs. Schroeder's prepared statement follows:]

PREPARED STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. Chairman, good afternoon. Chairman Long and the members of this subcommittee deserve congratulations for undertaking the challenging task of examining how legislative procedures work and whether they can be improved. I think the short answer to this question is that they work just fine when there is a broad consensus on the public interest. When, however, there is fundamental disagreement about the role of government between a majority of the House of Representatives and the President, the process leads to frustration and waste.

The shutting down of the Federal Government on November 23, 1981, is a clear example of the costs of disagreement. The staff of my Subcommittee on Civil Service prepared a report entitled, "The Cost of Shutting Down the Government on November 23, 1981", which concludes that somewhere in the range of $82 million to $88 million was wasted by the funding hiatus which occurred on that day. I have provided the subcommittee with copies of our committee print of the report.

[The report may be found in the subcommittee files.]

The report explains our methodology in arriving at the cost figure. I think our method was sound. Still, because agencies failed to keep good records on what happened during the funding gap, there is no way to verify our estimate. The General Accounting Office came up with a much lower figure, based on a quick look at extraordinary expenses. We included more factors in our estimate and came up with a greater cost. We could argue all day about the true cost of the shutdown on November 23. The bottom line is that millions of taxpayers dollars were effectively torn up.

Let me spend a minute to discuss how the study was done.

As you know, President Reagan's veto of the continuing funding resolution, H.J. Res. 357, on November 23, stripped the entire executive branch of its authority to obligate or spend appropriated funds except for certain essential functions. Before a new continuing resolution was signed into law during the evening of November 23, massive disruptions and confusion swept the bureaucracy.

In an attempt to estimate the costs of the shutdown of Government operations on November 23, I wrote to the heads of all Federal agencies with 50 or more employees, requesting that they provide to the Subcommittee on Civil Service information relative to the shutdown.

Initially, the responses from agencies were fairly inconclusive. Some agencies supplied the subcommittee with detailed reports of the individual employees who had been deemed essential and those who had been designated non-essential and sent home. Other agencies supplied only broad-ranging statements of policy with no estimates of the employees who were affected by the appropriations lapse or the costs of the shutdown to the agency. In order to obtain better data with which to work, the subcommittee staff contacted by telephone numerous personnel heads and directors of administration and policy throughout the Federal bureaucracy.

With the sketchy data provided directly by agencies, the subcommittee staff was able to delineate a number of cost categories to be included in the final estimate of the total costs to the Government of the events of November 23. First, the staff examined the administrative costs of designating employees as essential and non-essential, preparing and distributing notices to employees of their status, adjusting payrolls, organizing meetings within the agency and with other executive offices, and other extraordinary managerial costs directly attributable to the shutdown. Based on Government-wide averages, the staff imposed a standard figure of $9.08 per non-essential employee on this category.

Second, the staff sought to estimate the costs of paying salaries to those employees who were sent home for at least a portion of the day on November 23. While the expectation had been that those who were sent home would be placed on involuntary furlough, and not paid, based on a colloquy in the Senate on November 24 on the question of pay, the Office of Personnel Management determined that the people sent home should be retroactively placed on administrative leave, assuring those sent home pay for the time they did not work. The staff calculates, based on agency supplied data on the number of employees sent home and the time of their dismissal, that the total cost of this retroactive conversion was more than $9 million.

The subcommittee staff also took into account the salaries paid to all employees deemed non-essential during the period of lapsed appropriations on November 23. Guidance from Office of Management and Budget Director David Stockman, based on an opinion of the Attorney General, instructed Federal agencies that the only functions which could continue during a period of lapsed appropriations were a limited number of excepted activities sustained through appropriated funds which dealt with the protection of life and property and national security.

Agencies responded to this directive in different ways. Many of the big Cabinet departments reported the designation of 20 to 25 percent of their employees as essential. Other agencies which supplied full information to the subcommittee often showed 0 to 5 percent of their employees being essential. The Defense Department declared all of its employees essential despite the fact that numerous functions within the Department could not be undertaken without the support of other Federal agencies which had closed down. While many Defense Department functions are directly related to national security, it is doubtful whether all personnel should have been deemed essential during the funding hiatus.

In estimating the percentage of essential employees for agencies which declined to provide it, the subcommittee staff used similar agency percentages for calculations in arriving at an estimate of the salary costs for this category. The subcommittee found a total cost of more than $57 million for pay to non-essential employees. Had the agencies followed the law more strictly, we estimate that the percentage of essential employees would average 10 percent and the total cost to the Government for pay to non-essential employees would be approximately $78.5 million.

Finally, the subcommittee staff estimated that there would have to be unusual costs incurred by the central agencies of Government: The Office of Management and Budget, the Office of Personnel Management, the General Services Administration, and the Executive Office of the President in dealing with the lapse in appropriations. While these agencies refused to provide figures of their costs as a central agency, the staff estimates that the cost for staff time spent on these extraordinary functions would be in the range of $1 million to $3 million.

The General Accounting Office also attempted to provide an estimate of the cost of shutting down the Government on November 23. In contacting the 13 Cabinet departments and 12 selected agencies, GAO came up with a cost to the Government of $8.1 million. The variance of the subcommittee's estimate from that of GAO can be explained in a number of ways.

By its own admission, GAO acknowledged that because agencies, in reporting to GAO, computed their costs in a variety of ways and did not break out the costs of furloughs, et cetera, it was not possible to arrive at a cost for the shutdown or the lost productivity costs. In many instances, GAO reported that information gathered from agencies proved that—"data on the number of employees furloughed and the costs of implementing a shutdown are neither readily available nor easily obtainable."

While the subcommittee staff faced many of these same obstacles in gathering data from agencies, it appears that the time element involved in coming out with the final report had some bearing on the variance in estimates. GAO's report of the costs of the shutdown was issued on December 10, some 2 weeks after the day of lapsed appropriations. Thanks to the subcommittee staff's continuing efforts through the new year, agencies were able to supply more complete data to us. As one example, the Department of the Interior was unable to provide GAO with conclusive estimates of the costs which the agency incurred during the lapse. In reporting to the subcommittee staff, Interior estimated that $2.3 million was paid to employees for time not worked.

The law on what happens when there is a lapse in appropriations is spelled out in opinions of Attorney General Civiletti and in memoranda issued by Office of Management and Budget Director Stockman. They are based on old statutes which have not been changed substantially in recent years. Yet, until April 1980, funding lapses did not result in the termination of Government operations. The statutory basis was the same. The only thing that changed was the executive branch's interpretation of the law.

The current interpretation, which can be found in the memoranda on page 50 of the committee report says that only three types of activities can continue to be performed. In the first category is national security and foreign relations. Second, those paid on no-year or multi-year appropriations can continue to work. This group includes those who administer numerous benefit systems and who are paid from the trust funds. The third group is those who conduct essential activities to the extent that they protect life and property. All employees performing functions other than the ones listed can do nothing other than shut down the agency. And so, we end up with the peculiar situation in which we pay an enormous number of employees to do nothing.

Obviously, this waste of money could be eliminated by not paying employees who are not deemed essential for the period of the lapsed appropriations. Since there is a prohibition on the acceptance of voluntary services, the Government would be liable for all hours that employees actually do work. But even for hours not worked, it doesn't seem fair to penalize guiltless employees for the inability of the Congress and the President to come to agreement.

Another answer would be to enact H.R. 4394, introduced by Representative Hoyer, which would continue the pay of employees during periods of lapsed appropriations. This approach, and the stronger ones of granting permanent authority to continue Government operations in the absence of appropriations or revising the Anti-Deficiency Act to avoid the requirement to shut down operations, would weaken the action-forcing mechanism which coaxes and coerces the Congress and the President to come to agreement.

Here, then, are the two basic questions with which we must come to grips. Do Congress and the President need an action-forcing mechanism to come to agreement on a budget? Is the shutdown of Government operations the appropriate action forcing mechanism? The answers to each of these questions are obvious. Unfortunately, we do need something to force us to do our work on time. Furthermore, the greater the philosophical differences which exist between the executive and legislative branch and between the House and the Senate, the more we need something to force us to come to agreement. Shutting down the Government is to legislative budget writing as strikes and lock-outs are to labor/management negotiations.

Whether a shutdown is appropriate as a sanction is another question. The people being hurt are not the people who fail to meet their responsibilities. While it is Congress and the President who do not do the job right, it is Federal employees and consumers of Government service who take the blows. Further, the designation of some functions as essential takes the sting out of the sanction for some people. In other words, there are some conservatives who don't want the Federal Government performing any functions other than those deemed essential in any case. For them, the shutdown of Government is no action-forcing mechanism at all. Indeed, Government operations may be more of a carrot than a stick.

I apologize that I have no solution to offer. At moments of frustration I am tempted to suggest that we cut off our own pay for periods of time during which we fail to meet deadlines. Since we have operated Government on continuing resolutions for a number of years, it might well be that being a Member of Congress would be volunteer work in the future.

So, we can conclude that—

First, due to the wide spectrum of political viewpoints and the lack of consensus, there needs to be an action-forcing mechanism to force agreement on writing the Federal budget.

Second, shutting down the Federal Government, which is our action-forcing mechanism, is wasteful and hurts the wrong people.

I thank the subcommittee for the opportunity to testify and congratulate you for your efforts to escape from this conundrum. I look forward to your success.

Mr. LONG. Thank you very much, Pat. As you know, we continue to struggle with this, hoping that one of these years—not one of these days—but one of these years we can by a process of education get everybody to fully understand its importance. Your report on the cost of shutting down the Government on that one particular day is going to be very helpful to us. I hope many Members of Congress will read it and understand it, because I am not sure we do fully understand the impact of shutting down the Federal Government just for this one day as a result of the lapse of appropriation or authorization, as the case may be. I thought your statement was particularly interesting when you were talking about established legislative procedures working very well when there is a consensus on the basic issue.

But when there is no consensus on the basic issue, what happens is that legislative procedures do not work very well. That is the challenge we keep struggling with. In congressional oversight, the classic example of it is, when you are looking at something that everybody wants to look at, then congressional oversight goes well.

As you aptly pointed out in your carrot and stick argument—those who want to tear up the program say let's go ahead with it, and those who want to maintain the program say it doesn't need looking at; it is all working well. But our failure in a lot of these instances to enact an appropriation bill is a very, very serious legislative problem.

If we permit a gap in the public debt it could have extremely serious consequences in my opinion. So we look at procedures that are solutions to these problems, such as enacting the debt ceiling in the budget resolution, as we have done, or adjusting the budget timetable to provide more time for consideration of the appropriation bills, the necessary authorization bills, and the like.

But considering where we sit as the Rules Committee, if you just sit back and look at all of the circumstances surrounding our inability to act in a timely fashion, I think that we will find that often our failure to act in a timely way has been due to the fact that somebody is trying to put a controversial rider on some piece of legislation. This just gets us bogged down to the extent that we cannot, in many instances, move at all. It goes back to what you said, if we don't have consensus on the issues, our procedures lead to frustration, and, in turn, to a great deal of waste.

Somebody pointed out to me that when Mr. Civiletti was the Attorney General, he was trying to work out a procedural solution to what is essentially a political problem. It is not basically a procedural problem. It is a political problem to which we are attempting to apply a procedural solution. He issued his decision with respect to what would happen upon the expiration of the money and the appropriation bill. He is attempting, evidently I gather, to prod the Congress to act. But if you look at what happened last November, President Reagan ordered cessation of all except essential Government expenditures. And so we start looking at ways around it. One of the things that has been continually—I'm digressing a moment—brought to the attention of the subcommittee with respect to the constitutional imposition of a balanced budget, is that if we impose that as a constitutional requirement, what will happen is that people will look for ways around it.

And if we look at what has happened on some of the appropriations in the budget bills that have passed the Congress, the increase goes over the past few years. It is certainly something that causes this institution a bit of concern. Martin.

Mr. FROST. I want to make sure I understand, and I have not had a chance to review the report so I am just doing this from your testimony. What you stated in testimony was that the cost was somewhere in the range of $82 million to $88 million.

And then later you state that the total cost of pay for the nonessential employees for the time they were not there is $57 million. So it would be appropriate to subtract the $57 million from the $82 million or $88 million, and get the extra cost, the administrative costs of accomplishing all of this because those people would have gotten that. If they had been working, they would have gotten the pay. They were not working, and they got the pay. They were paid for the time they were off. The Government would have been out that money for their salary regardless.

Mrs. SCHROEDER. I think the confusion exists since every agency handled the situation so differently. There was nobody really enforcing the law as to specifically what the protection of life and property really meant. But as far as we can tell from the desk audits in each of the different agencies, the number of employees deemed essential would be about 10 percent across the board. And where that——

Mr. FROST. You said 10 percent.

Mrs. SCHROEDER. Yes; 10 percent would be essential and remain on the job. Now they are not included. So if you took the 90 percent who are nonessential, and took their pay out for that 1 day, it would be that amount. That is the conjecture that we are putting in there. That is not necessarily out of pocket. The only reason that it probably should have been out of pocket is if you complied with the law the way they were in some agencies. But there was not the uniform compliance is what we are saying.

Mr. FROST. But I am saying that my question goes to what it cost the Government to do this over and above the amount of money those employees would have been paid in salary anyway.

Mrs. SCHROEDER. I see what you are saying.

Mr. FROST. And I was just asking you if the way you get it is to subtract the $57 million from the $82 million, and the difference is the administrative cost.

Mrs. SCHROEDER. Sure you can do that if everybody stayed on. If you mean the Hoyer proposal, sure, that is right. The other people say in all honesty to target that 1 day is ridiculous. The whole week was lost. You can go any way you want to go, but what we are really saying is if you had done an involuntary furlough and really enforced it actively that is our best guess as to what the cost would have been.

Mr. FROST. Yes. I understand that.

Mr. LONG. Butler?

Mr. DERRICK. I don't have any questions.

Mr. LONG. I have a couple of other questions. And I have not read your study. I looked at the figures in it, and then I didn't go any further. A question comes to my mind as to whether or not you looked at the nondollar costs with respect to this? Did you look at that at all?

Mrs. SCHROEDER. No. The nondollar costs and the program costs?

Mr. LONG. Right.

Mrs. SCHROEDER. Both of those items we really didn't look at, and the productivity costs also. We were just trying to get some kind of analysis as to how many Federal employees would truly be nonessential and if you applied it, and the administrative costs of hassling all that out. That is really——

Mr. LONG. You made the point also that every agency handled it in a different way, and that there was really no system set up at all. Has anything been done since that time to set up some sort of a uniform system?

Mrs. SCHROEDER. Not that I am aware of. Now, I may be corrected on that, but my impression is that most agencies were happy that it came and went, wanted to treat it as an aberration, don't let it ever happen again. It is not one of the most pleasant things that you want to be reminded of. One of the comments I wanted to make about your earlier thinking is that, I think all of us are worried about being process liberals, and this is a good example of where we move back the fiscal year because everybody said if we just get it to September 30 we won't have that summer heat on it.

So we moved it back, and now we are in this awful position on this side where I think we can straighten our halos a little more because we really do have those bills out. I mean a lot of this we get rapped with. We have those bills out, and we have the quote, "other body," which hasn't, and yet here we are stuck with dealing with all of this, and we get rapped for a lot of this cost and a lot of this disruption, too. And I think a bit unfairly.

Maybe we should go pick at the other body.

Mr. **Long**. Have you got a little bill hanging around anywhere you plan to introduce on this?

Mrs. **Schroeder**. On this other body?

Mr. **Long**. No, no, with respect to the uniformity of these procedures and trying to bring any order at all out of this?

Mrs. **Schroeder**. Well, yes. We have been trying to get the Office of Personnel Management to really put in uniform personnel practices because of what happens long term. It is very bad procedure to have some wink their eye, and other agencies take it very seriously especially if they are next door in the Federal building. So a bunch of people get sent home, and the others don't. And the question is: Is it or is it not the law? No; we are not introducing a law saying you have to send people home, but I think it is something that we clearly should point out that it wasn't uniformly done. And when you do that, and you play those kinds of games, it is really disruptive to morale.

Mr. **Long**. Thank you very much. I compliment you on the little story in the New York Times today. Amongst your other accomplishments is being named to the Honored Mothers of America list. Raising a family and doing everything you do is something. Pat was on it, and Geraldine Ferrarro.

Mrs. **Schroeder**. We are very worried about being the two biggest congressional mothers of the year.

Mr. **Long**. Sally John, the wife of Tommy John, the baseball player was on it. Nancy Thurmond was on it.

Mr. **Derrick**. And now I know you have arrived.

Mr. **Long**. I thank you very much.

General Bowsher, if you would come forward. I would like to note for the record that the general today is accompanied by two outstanding people who have assisted this committee many times in the past in our deliberations. Milton Socolar served in the General Accounting Office as General Counsel and Acting Comptroller General. Harry Havens, is Assistant Comptroller General for Program Evaluation. General, I would like to publicly comment how pleased we were to see you selected for and appointed to this very important position.

Of course, we are familiar with the notable career that you have had in private enterprise in addition to a very substantial amount of public service during the period. Your comments on this whole variety of issues that are facing us here with respect to congressional oversight are most welcome. We think that you are in a particularly good position because of your prior business and Government experience to give us a very pragmatic approach to the problem. I hope it will help us see our way out of the clouds that we find enveloping us.

Thank you. Proceed in your own way, if you would, sir.

STATEMENT OF HON. CHARLES A. BOWSHER, COMPTROLLER GENERAL OF THE UNITED STATES

Mr. **Bowsher**. Thank you very much, Mr. Chairman, and members of the committee. It is a real pleasure and privilege to be here today, and as you point out, this is the first time I've testified before this committee.

In the coming weeks, the Federal Government may encounter another funding gap, if the debt limit extension is not enacted. On this matter you requested that we provide you our views on the effects of a lapse in funding for Government departments and agencies and for the effects of a failure to enact a necessary increase in the public debt limit for a prolonged period of time.

You also asked us to address the timeliness and the content of impoundment reports to the Congress during the 97th Congress and the effects on impoundments of the enactment of Senate Joint Resolution 58 or House Joint Resolution 350. GAO has done some work on these subjects. The relevant reports and testimony have been provided to your subcommittee

First, I would like to examine the effects of funding gaps due to failure to enact appropriations. There have been relatively frequent funding gaps due to failure to enact timely appropriations. The effects of these gaps on Federal operations and services include lost productivity, lowered morale, disruptions in services, lowered respect for the Federal Government, and also some direct costs. These effects involve not only the Federal agencies but also those who work under Federal contracts and grants including local governments, States, universities, defense contractors, and anyone else who receives Federal aid and services.

The extent of these effects depend on how agencies respond to the existence of a funding gap and the length of the gap. The present procedure is immediately to begin orderly shutdown of non-essential operations. The most recent shutdown was on November 23, 1981. It did not extend beyond that day and did not get fully initiated in all agencies.

Therefore, that experience does not provide us with a basis for assessing the effects of a longer and a more complete shutdown. We can only state that most Government operations other than those for defense, intelligence, and protection of life and property, would be shut down completely within the first few weeks.

Several remedies have been proposed to lessen the impacts of relatively short-term funding gaps, and these are discussed in the material we have provided you.

Next, I would like to talk about the effects of not increasing the debt ceiling. Failure to enact an extension and increase in the temporary debt ceiling for a prolonged period would also create a funding gap situation but one of a different sort. As Treasury ran short of cash, payments would have to be discontinued including payments for services already performed.

In addition to the disruption of Government operations and services, there would be effects on Government borrowing and the financial markets. In examining the delays in extension of the debt ceiling which occurred in 1978 and 1979, we found that they resulted in increased borrowing costs to the Government, raised uncertainty in the financial markets and called into question the fiscal integrity of the Government itself as the probability arose of an actual default on the redemption of Government securities.

We continue to believe that since the growth of public debt is in large measure the ultimate result of the revenue and expenditure decisions made by the Congress and the President, a prudent course of action would call for incorporating the debt ceiling decisions as part of the budget resolution as is now done in the House but not the Senate.

Furthermore, the Congress should consider making the entire debt ceiling permanent. At present the ceiling is comprised of a permanent ceiling of $400 billion plus an additional temporary authorization of about $680 billion for a combined total of over $1 trillion.

Next, I would like to address the timeliness and the content of impoundment reports.

Mr. LONG. Would you mind, General—would it suit you just as well if we could take these by topic and discuss them a bit?

Mr. BOWSHER. Sure. I'd be very happy to, Mr. Chairman.

Mr. LONG. Let's do that if we may. I think that one of the interesting questions on the debt ceiling, making part of it permanent and the other part of it temporary, is the basic question that has been raised here a number of times of whether or not the debt ceiling in itself serves any purpose. Does it serve even a psychological purpose other than providing the opportunity for misdemeanors and bad conduct and show of irresponsibility and such things as this. Do your people have a view on this?

Mr. BOWSHER. I think your term just a few minutes ago is very appropriate. We also are getting more and more concerned about these procedural happenings—you might say trying to force the issue. When we used to come to the end of the fiscal year, and we didn't have an appropriation, the Government would continue to operate pretty much as normal because the interpretations of my predecessors was that Congress never intended the Government to shut down. We, therefore, had a more liberal interpretation of the Anti-deficiency Act than the Attorney General later made.

Our concern is over what we see happening now. The Congress is ending up with maybe five, six, or seven times a year where they have to vote on these major budget and financial and debt issues. This gives an opportunity to all on a lot of other issues, as you were saying. We wonder if the Congress would not want to consider to get those major votes back to one or two a year.

That is why we question if you need the debt limitation, at all—I think that is a good issue of whether or not it——

Mr. LONG. Serves any purpose.

Mr. BOWSHER. Correct, serves any purpose. But, if you are going to have a limit, then we think it makes a lot of sense to consider combining that decision with one of the budget resolutions decisions.

Mr. LONG. But as you say, we have basically done that in the House.

Mr. BOWSHER. That's right.

Mr. LONG. This issue that we have been struggling with of these legislative riders on appropriation bills—you know, I don't mind voting on abortion. It is part of my responsibility.

But I'm getting tired of voting on it 16 times a year.

Mr. BOWSHER. That's right.

Mr. LONG. Thank you.

Mr. Bowsher. The next issue is the timeliness and the content of impoundment reports. The timeliness of executive impoundment reports has been an issue virtually since the act was passed. In 1977, we reported to Congress that unsatisfactory delays had occurred in OMB's reporting of impoundments under the Impoundment Control Act. OMB asserted that delay in reporting impoundments often results when it batches impoundments together in one report rather than sending each item to the Congress separately.

We recognized in our report that to some degree the speed in reporting routine matters to the Congress should be balanced against the administrative efficiencies. However, we concluded that not all delays are the result of batching for administrative convenience. Therefore, we urged OMB to place greater weight on the needs of the Congress to receive timely reports.

The executive branch generally has done a better job in promptly reporting impoundments since we issued our 1977 report. The increase in the volume of impoundment proposals in the last 2 years appears to have caused a corresponding increase in delays in transmitting impoundment messages to Congress. However, the executive branch transmitted impoundment proposals in the beginning of this fiscal year in a series of special messages, rather than withholding the proposals until they could be compiled in one special message. For example, during the first 29 days of this fiscal year, the President transmitted 4 different special messages containing 208 deferrals. This served to reduce the delays in transmitting the proposals to Congress. Of course, as a practical matter there is always some time lost between the establishment of reserves by the agency or OMB and when the special message actually is transmitted to the Congress.

Now, on the quality of reports. We reported in 1977 that OMB's early impoundment special messages needed improvement, but that OMB has been cooperative in accepting our recommendations for improvement. We have continued to recommend that OMB specify the expected ending dates for proposed deferrals and identify cognizant agency and OMB officials for each impoundment. Congressional staffs often contact us for information on impoundments because they may not know which executive branch officials would be responsive to their inquiries. Such information also would facilitate our examination of proposed impoundments.

During our examination of special messages, we sometimes discover that factual errors exist or that the justification in programmatic effects of the impoundment are described inadequately. In those cases where such discrepancies occur we provide the necessary supplemental information to the Congress in our impoundment reports.

Now, the two joint resolutions on which you asked us to comment propose an amendment to the Constitution which would alter Federal budget procedures. The amendment would require that the Congress adopt for each fiscal year a statement of receipts and outlays in which total outlays do not exceed total receipts. Only by approval of three-fifths of the whole number of both Houses may Congress in such statement "provide for special excess of outlays over receipts." The amendment would further provide that the Congress and the President shall insure that actual outlays do not exceed the outlays set forth in the statement adopted by the Congress. You have asked how enactment of such a constitutional amendment would affect the current process under the Impoundment Control Act.

Where the level of available budget authority and resulting anticipated outlays exceed the provisions for outlays contained in the statement adopted by the Congress, the Congress or the President would have to reduce outlays. There are several ways in which this might occur. One, of course, would be for the Congress itself to reduce outlays by reducing budget authority or other spending authority through the existing budget process. If the Congress failed to do that, however, the amendment might well be construed as placing a positive, constitutional duty on the President to reduce outlays through withholdings of budget authority among other things. Consequently, the President could claim that he is withholding some budget authority based on his constitutional mandate rather than under the Impoundment Control Act. Under these circumstances, the withholding based on this mandate would supersede the Impoundment Control Act procedures in whole or in part, including the right of the Congress to overturn the Executive's impoundment decision. This situation would be analogous to those in which certain appropriation acts provide that budget authority shall be reduced to certain percentage by the President. We have held that the executive branch reductions made in response to those provisions are not subject to the Impoundment Control Act.

Even if the President and the Congress are constitutionally required to make reductions in the level of available budget authority, Congress may want to retain some control over where those reductions are to be made. To insure congressional participation in that process, the Congress might either amend the Impoundment Control Act or provide some other mechanism to regulate any reductions that need to be made in order to comply with the constitutional amendment.

Mr. Chairman, this concludes my statement, and my colleagues and I would be pleased to answer any questions.

[Mr. Bowsher's prepared statement follows:]

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Statement of

Charles A. Bowsher

Comptroller General of the United States

before the

Subcommittee on Legislative Process, Committee on Rules

House of Representatives

Mr. Chairman and Members of the Subcommittee:

In coming weeks the Federal Government may encounter another "funding gap" if the debt limit extension is not enacted. On this matter, you requested that we provide you our views on the effects of a lapse in funding for government departments and agencies and the effects of a failure to enact a necessary increase in the public debt limit for a prolonged period of time. You also asked us to address the timeliness and content of impoundment reports to the Congress during the 97th Congress and the effects on impoundments of the enactment of S.J. Res. 58 or H.J. Res. 350. GAO has done some work on these subjects. The relevant reports and testimony have been provided to your subcommittee.

EFFECTS OF "FUNDING GAPS" DUE TO FAILURE TO ENACT APPROPRIATIONS

There have been relatively frequent funding gaps due to the failure to enact timely appropriations. The effects of these gaps on Federal operations and services include lost productivity, lowered morale, disruptions in services, lowered respect for the Federal

Government, and some direct costs. These effects involve not only the Federal agencies but also those who work under Federal contracts and grants, including local governments, States, universities, defense contractors, and those who receive Federal aid and services.

The extent of these effects depends upon how agencies respond to the existence of a funding gap and the length of the gap. The present procedure is to immediately begin orderly shut down of non-essential operations. The most recent shut down was on November 23, 1981. It did not extend beyond that day and did not get fully initiated in all agencies. Therefore, that experience does not provide us with a basis for assessing the effects of a longer and more complete shut down. We can only state that most Federal operations other than those for defense, intelligence and the protection of life and property would be shut down completely within the first few weeks.

Several remedies have been proposed to at least lessen the impacts of relatively short-term funding gaps. These are discussed in the material we provided you.

EFFECTS OF NOT INCREASING THE DEBT CEILING

Failure to enact an extension and increase in the temporary debt ceiling for a prolonged period would also create a funding gap situation but of a different sort. As Treasury ran short of cash, payments would have to be discontinued, including payments for services already performed. In addition to the disruption of Government operations and services, there would be effects on Government borrowing and financial markets. In examining the delays in the extension of the debt ceilings which occurred in 1978 and 1979, we found that they resulted in increased borrowing costs to the government, raised uncertainty in financial markets and called into question the fiscal integrity of the government itself as the probability rose of an actual default on the redemption of government securities.

We continue to believe that since the growth of public debt is in large measure the ultimate result of the revenue and expenditure decisions made by the Congress and the President, a prudent course of action would call for incorporating the debt ceiling decisions as part of the budget resolution, as is now done by the House but not the Senate. Furthermore, the Congress should consider making the entire debt ceiling permanent. At present the ceiling is comprised of a permanent ceiling of $400 billion plus an additional temporary authorization of about $680 billion for a combined total of over $1 trillion.

TIMELINESS AND CONTENT OF IMPOUNDMENT REPORTS

Timeliness of Impoundment Reports

The timeliness of executive impoundment reports has been an issue virtually since the act was passed. In 1977 we reported to the Congress that unsatisfactory delays had occurred in OMB's reporting of impoundments under the Impoundment Control Act. OMB asserted that delay in reporting impoundments often results when it "batches" impoundments together in one report rather than sending each item to the Congress separately. We recognized in our report that, to some degree, the speed in reporting routine matters to the Congress should be balanced against administrative efficiencies. However, we concluded that not all delays are the result of "batching" for administrative convenience. Therefore, we urged OMB to place greater weight on the needs of the Congress to receive timely reports.

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During our examination of special messages, we sometimes discover that factual errors exist or that the justification and programmatic effects of the impoundment are described inadequately. In those cases where such discrepancies occur, we provide the necessary supplemental information to the Congress in our impoundment reports.

EFFECTS ON IMPOUNDMENTS OF ENACTMENT OF S.J. RES. 58 OR H.J. RES. 350

The two joint resolutions on which you asked us to comment propose an amendment to the constitution which would alter Federal budget procedures. The amendment would require that the Congress adopt a statement of receipts and outlays for each fiscal year in which total outlays do not exceed total receipts. Only by approval of three-fifths of the whole number of both Houses may Congress in such statement "provide for a specific excess of outlays over receipts." The amendment would further provide that the Congress and the President shall insure that actual outlays do not exceed the outlays set forth in the statement adopted by the Congress. You have asked how enactment of such a constitutional amendment would affect the current process under the Impoundment Control Act.

Where the level of available budget authority and the resulting anticipated outlays exceed the provisions for outlays contained in the statement adopted by the Congress, the Congress or the President would have to reduce outlays. There are several ways in which this might occur. One, of course, would be for the Congress, itself, to reduce outlays by reducing budget authority or other spending authority through the existing budget process. If the Congress failed to do so, however, the amendment might well be construed as placing a positive constitutional duty on the President to reduce outlays through withholdings of budget authority among other things. Consequently, the President could claim that he is withholding some budget authority based on his constitutional mandate rather than under the Impoundment Control Act. Under these circumstances, the withholdings based on this mandate arguably would supersede the Impoundment Control Act procedures in whole or in part including the right of the Congress to overturn the Executive's impoundment decision. This situation would be analogous to those in which certain appropriation acts provide that budget authority shall be reduced a certain percentage by the President. We have held that the executive branch reductions made in response to those provisions are not subject to the Impoundment Control Act.

Even if the President and the Congress are constitutionally required to make reductions in the level of available budget authority, the Congress may want to retain some control over where those reductions are to be made. To insure congressional participation in that process, the Congress might either amend the Impoundment Control Act or provide some other mechanism to regulate any reductions that need to be made in order to comply with the constitutional amendment.

That concludes our statement. My colleagues and I would be pleased to answer any questions you may have.

Mr. **Long**. I have a couple of general questions, but they relate to matters not discussed specifically in your statement. I will delay them, and we will discuss your statement. Mr. Frost?

Mr. **Frost**. There have been relatively few unreported reclassifications of impoundment suits brought by GAO to compel the expenditure of funds. Does this indicate substantial compliance by the President to the requirements of the impoundment program? Or are you satisfied that GAO has sufficient resources and ability to monitor such a finding?

Mr. **Bowsher**. Well, we basically think there has been pretty good compliance, and we do think we have put in enough resources to follow it and to report on it. I know there has been some concern about timeliness and other things, and Mr. Socolar has been working on it in more detail than I have.

Mr. **Socolar**. I think it is fair to state that the act has been working reasonably well in terms of its fundamental purpose. There are situations where because of the nature of particular legislation, the question arises as to whether, indeed, the Impoundment Control Act applies or doesn't apply. Some of those things take time to analyze completely. Fundamentally, we operate on a complaint basis.

We do not have people stationed throughout the Government searching out unreported impoundments. We have found reasonable cooperation with the Office of Management and Budget. When those kinds of questions do arise, we bring them to the Office's attention. They more often than not will agree and make their own report shortly after we bring the matter to their attention.

I suppose the basic answer to the question you raise is that yes, we think the act is working reasonably well.

Mr. **Frost**. Let me ask one other question. How do impoundments affect the ability of congressional committees to oversee programs within their jurisdiction? Simply, is there sufficient notification to committees so that they fully understand how impoundments might change policies established?

Mr. **Socolar**. I think the fundamental concept of the Impoundment Control Act is to deal with just that question. The President submits impoundment reports to the Congress which detail in specific terms, by account, which amounts of budget authority are being impounded. The Impoundment Control Act itself provides that if the Congress, or if either House of the Congress in the case of deferrals does not agree with the choice of impoundments that the President is making, special procedures are contained in the act to get prompt legislation before the House for consideration.

Mr. **Frost**. Well, is that good enough, is the question. Do you think that the notification procedure is sufficient so that they fully understand?

Mr. **Socolar**. I should think that it would be. There has been some question in terms of how long it takes the President to actually submit a report after the determination is made to impound. We have been working over the years to speed up that process. Given the number of impoundments that are involved, I think one has to expect that it will take some time from the decision point to the actual reporting. Here, again, I think overall, given the fundamental aim of the Impoundment Control Act itself, the process works reasonably well.

Mr. BOWSHER. One thing I might add, Mr. Frost, is that we now know that this is a sensitive area and we have put out instructions to our people to give this area timely attention once it is identified as an area that has to be looked at. I can assure you that the people at GAO are very much alerted to the fact that this impoundment area is a very important area, and we have got to give it the attention it needs.

Mr. FROST. I don't have any additional questions.

Mr. LONG. Thank you. Mr. Derrick?

Mr. DERRICK. Have you given any thought to maybe doing away with the entire budget system and setting up a capital expenditure budget and an operating budget as perhaps being more reflective of the needs and the ability of the Government to pay those needs?

Mr. BOWSHER. Yes. I think the capital budget issue should be looked at. In other words, we think that right now it is the time to look at the whole budget process. There are obviously problem areas in the budget, and it has not been looked comprehensively since 1967. I used to be kind of a fan of the capital budget thing until I did some work at New York City relating to its fiscal practices. I saw how a capital budget can sometimes be bent, you might say, and if you don't have good accounting principles or budgeting principles to keep the items either in the operating or in the capital budgets where they belong, it can sometimes cause problems.

So, no, I am more of a fan of a unified budget tied into the borrowing issue so that you can have the whole picture. Right now our unified budget concept really does not tie into what we have to borrow as a Federal Government, and it never has been even.

Mr. DERRICK. Is not tied to what? The borrowings?

Mr. BOWSHER. Into the borrowings. I think that is a big problem. All these areas—the capital expenditure issue, the process itself, whether we need this many checks and balances as far as the procedures and items like that, should all be looked at. I also think the capital budget issue ought to be looked at at that time.

Mr. LONG. Related to this is, the basic question, and it is probably what happened in New York. If you cannot do what you want to do in the procedure that is established, you find a different way around it.

Mr. BOWSHER. That is right. You find a way around it and that is what you have to be careful of.

Mr. LONG. That is one of the great concerns to Butler and great concern to Martin and me. I guess we have heard about as much testimony on it as anybody in Congress. This whole problem with respect to tax expenditures is that we have no control over them. We watch them over the years. We watch them grow. They grow, grow, grow. That gets back to the question that I had related before: If we do put in a constitutional amendment what is going to be the new method of getting around it?

You can sit down right now and figure it out. We are already beginning to see some examples. They are beginning to show their faces around—the ways to get around a constitutional amendment.

Give us the benefit of your experience outside in business, in one of the leading accounting firms, and in Government, as to how we can perform some oversight with respect to tax policy because it all gets back to that simple question.

Mr. BOWSHER. Well, it is a little bit similar to what I was saying. You have got to pull it all together. You have got to look at your overall financial structure, and tax expenditures are very much a part of that structure. I think capital expenditures is an important issue. I think the off-budget items have to be looked at, and the credit-budget items have to be looked at. How you bring it together and actually run it through the budget process. I think it is awfully important to tie the accounting system into the budgeting process, on which our Federal system does not do as good a job as it probably should.

Again I think that it is such a big area that you really need a commission or some group that takes a hard look at all of this, and then reports back to the Congress and to the President.

Mr. DERRICK. I think a unified budget is a very unfair reflection of the expenditures of Government. As you know none of us as individuals work under a unified budget. If we buy a home, we pay for it over 30 years, and that is reflected in our use over a 30-year period. Why should the Federal Government when building a building that is going to last many years——

Mr. BOWSHER. Have the expense all in 1 year.

Mr. DERRICK. Have to expense it all. I believe most of the States in this Nation do not have a unified budget. I know the State of South Carolina does not. I did a little calculation one time with someone down there, and if the Federal Government used the same accounting procedure that the State of South Carolina did, we would end up probably with a surplus in the operating part.

South Carolina has a constitution that requires a balanced budget, and the legislators down there make a great deal over it as I did when I was there. Yet the Federal Government doesn't. But it seems to me that the States may have a better reflection of actual expenditures. One last question.

How long as a practical matter do you think it would take this body to find a way to get around a constitutional amendment? Do you think it would be 1 or 2 weeks?

Mr. BOWSHER. My guess it that it would be a very short period of time.

Mr. DERRICK. Thank you very much.

Mr. LONG. Mr. Frost?

Mr. FROST. As I think has been mentioned, the Rules Committee is now looking at the entire question of the budget with a separate task force. What is your opinion about removing the social security system from the budget so that it would be treated in a separate, off-budget manner rather than being a part of the unified budget right now?

Mr. BOWSHER. Well, that would concern me. The social security is the largest single item in the budget. To move that out—that was the way it was really before 1967. I can remember when it came in. At that time, it had a positive cash flow. Now, it is reversed and gone the other way—I think it should be considered, but offhand, I would not rush to do that.

Mr. FROST. But what, in fact, are your objections?

Mr. BOWSHER. Well, again, I am inclined to think that you ought to look at your total receipts, your total disbursements, tie it in to your borrowings, and that gives you the best overall budget.

I understand what you are saying about the capital items, and I would like to see the capital items go on the books literally and get depreciated over the years. I think there is a lot of support for that. As long as you are expensing them every year, you virtually lose control. I don't think the asset records here in the Federal Government are very good. One of the reasons is that you expense them in the year that you budget for them. But, as to social security, my major concern would be separating it out because it very much is part of the total picture.

Mr. FROST. There is concern in the country, and a lot of people are fairly cynical about the future of social security, and there is some feeling that if we separated it out and perhaps removed some of the programs from that that have been added over the years.

Mr. BOWSHER. You mean like medicare?

Mr. FROST. And returned it more toward the retirement concept that it would, then, be perhaps—perhaps there would be greater appreciation for it in the country, and there would be greater confidence among younger people that it would remain sound. If we could see it very clearly as a distinct and separate item, separate from everything else the Federal Government is doing in a budgetary basis, that it would engender some confidence in the system.

Mr. BOWSHER. Those are basic programmatic decisions which, I think, are worthy of being looked at and getting better information. But, I am not sure I would exclude it from the budget process.

Mr. DERRICK. Are you worried about the discipline? Is that your main——

Mr. BOWSHER. The discipline in the overall financial decision-making process—what you are doing.

Mr. DERRICK. This is off the subject really, but I think this is what we are going to have to do with the social security system. We will probably before too long dismantle the hospital insurance program and put it in the——

Mr. BOWSHER. Put it in the general fund.

Mr. DERRICK [continuing]. In the general fund and restructure the system so that people will have some confidence in the viability of the program.

Mr. BOWSHER. Yes; I am not arguing, against that. I am saying that is a program matter.

Mr. DERRICK. I understand that is an entirely different matter.

Mr. BOWSHER. Yes. It is a different matter, it is a programmatic decision. But, to separate it out and make it a separate budget versus your general funds—I would tend to keep it together.

Mr. LONG. Two other items for the record primarily. In hearings before this subcommittee in which your predecessor appeared, we discussed the development of an inventory of Federal programs under bill 58 that we developed here. I think these gentlemen had commented on it.

I wonder if we could get an up-to-date status on this GAO program inventory?

Mr. HAVENS. I would be happy to supply a full status for the record.

Mr. LONG. Give us a minute or two of it, if you would; and then if you would do both, it would certainly be helpful.

Mr. HAVENS. Certainly. The inventory is progressing. We have most programs now covered particularly on the civil side. There are still some gaps in the defense side. We have an increasing volume of data attached to each program element.

There has been an increasing concern that we may not have a totally consistent definition of terms as to what is a program and which elements, in fact, are programs.

Mr. LONG. It is tough.

Mr. HAVENS. It is very tough. So we are in the process, again, of working on that problem which has been a problem since 1974 when we started working on it. I think we would be prepared to implement bill 58 at the time that it would be called for in that bill.

Mr. LONG. If you would give us a supplemental for the record we would be appreciative.

Mr. HAVENS. Certainly, Mr. Chairman.

[The "Status of Program Inventory" submitted by Mr. Havens follows:]

STATUS OF PROGRAM INVENTORY

GAO has proceeded with the development of the program inventory under our existing authority under section 202(a)(1) and 203(c) of the Legislative Reorganization Act of 1970, as amended by the Congressional Budget Act of 1974. Generally the act requires GAO to develop and maintain, first, standard terminology, classifications, and codes for Federal fiscal, budgetary, and program-related data and information and second, central files of such data. Consistent with these requirements, we have developed and maintained a Federal program inventory of about 6,000 programs, activities, and projects of all Federal agencies, off-budget entities, and other Federal entities. For each item, we now identify the following data elements:

Name of the program, activity, or project, as well as its objectives and description;
Administering agency and bureau or independent entity and commission;
Citation of law that authorizes the program or activity;
Appropriation account, including budget function and subfunction;
Amount authorized and funding limitations;
Expiration and reauthorization dates;
Budget amounts;
Special program and policy areas and target groups; and
House and Senate appropriation and authorizing committee jurisdiction.

There has been increasing recognition on the part of the Congress and the executive branch for the need to reduce the budget and to conduct substantive budget and oversight reviews of similar programs across agency lines. In light of the increased emphasis on budget-decisionmaking, the need for program and budget information in assessing authorization, legislative, and funding alternatives has intensified. The work being conducted in this area represents the basic building blocks for the Congress—particularly, the authorizing committees of the Congress—to oversee programs and consider budgetary alternatives.

Although we have significant progress in this area, some work remains to be done. For example, work remains to be done to achieve consensus on a simpler set of program categories as part of streamlining of the budget process. Additionally, we need to assess the impact of the emerging bloc grant programs upon the existing inventory. We plan to do some work in both these areas as well as others over the next several months. However, notwithstanding the needs for additional work the knowledge and expertise we have developed among our core staff puts us in an excellent position to expand our service if the House decides to adopt a more systematic oversight process and to take the lead in publishing the inventory required by H.R. 58.

Mr. LONG. One additional question. Disparity in figures is always interesting but when they are as far apart as Mrs. Schroeder's figures and yours with respect to the cost of closing the Government down for 1 day, and Mrs. Schroeder is saying that she is getting complaints that items were not included in her $80 million-plus figure that ought to have been included. Did you all look at her study? Did you come up with any conclusion as to why the great disparity exists, and who do you feel is right?

Mr. **Bowsher**. Well, I am not sure whose figure is right. I think our figure was what we could clearly identify from the records and from the information provided by the agencies. We were also asked to respond to Congressman Hoyer by December 10.

We did not make the assumption that Congresswoman Schroeder did. She made one basic assumption, that the people were not working on their regular jobs doing their regular work responsibilities that day. Based on the information they picked up, and they priced that out. It is a way to arrive at a cost figure. The ripple effect, however, could drive the cost much higher.

There is no question that if you could ever capture, although I don't think you could, the real dollars lost, I think it would go higher than her figure.

Mr. **Long**. There is the ripple effect, for example, the one she was pointing out of the people trying to make deliveries who couldn't make them and had to come back the next day.

Mr. **Bowsher**. People were making deliveries. The people that started looking for jobs but just got so disheartened, they stopped. I am sure it was there.

Mr. **Long**. The unreal has a way of becoming real around here, as you know. Let me ask another question in that context. It involves the whole question of a funding gap relating to our inability to agree upon a debt ceiling. You remarked in your statement, if I recall correctly, that there would be different effects. I would be interested in some of the types of events that might occur, the impact on financial markets, the cost to the Federal Government in the event we do not act in a timely way. I think it would be good for us to get that on the record.

After that I have one additional question for you, and I think we will be through.

Mr. **Bowsher**. A lot depends on how many days go by in the gap. In other words, as we point out in our statement, our experience has been with relatively short gaps on this debt issue. It was 2 days in one year and 3 days in the other.

Each time you had financing transactions that had to be delayed. Financings that when we checked on later indicated that the Government had to pay a higher interest cost. My bigger worry would be if you had a gap of many more days. I think the financial markets would shudder a bit and just what would it do to things. I think if you look back at any of the financial hiatuses that some States have had, or New York City, they have generally paid a good deal more in interest rates when they were selling securities afterward than when they had before those things happened.

I think that would be potentially one of the biggest costs that the Federal Government could have if they ever have a funding gap of long duration. I also believe the people's confidence would be affected—in other words whether or not the money is going to come. There are a lot of people and organizations in this country that are very dependent on the Federal Government for support and as the senior governmental body. If you go more than 2 or 3 days, there is going to be a lot of concern. Also you just don't know what the ripple effect will be throughout the country.

Mr. LONG. The very real ripple effect—for lack of a better term that is how I will describe it—on the psychology of the investor is something that is impossible to determine, because if there is anything I learned from my experience in the investment community, it is that they can take ups and they can take downs, but they cannot take indecision.

Mr. BOWSHER. That is right.

Mr. LONG. And that is worse than anything else.

Mr. BOWSHER. If the Federal Government waited too long, I think it would be seen as a very risky situation.

Mr. LONG. What is your date as to how long the Federal Government can operate without having to increase the debt ceiling?

Mr. BOWSHER. Well, I think anything beyond a week would be very long.

Mr. LONG. No; I am talking about the date this year. Have you projected out how long we have got enough money to operate on?

Mr. BOWSHER. We have not projected that out.

Mr. LONG. I would advise you not to.

Mr. BOWSHER. I had asked that same question.

Mr. LONG. Do you have anything you would like to add to the committee, General?

Mr. BOWSHER. No; I think these are the issues.

Mr. LONG. Gentlemen, thank you very kindly.

The subcommittee stands adjourned.

[Whereupon, at 3 p.m., the Subcommittee on the Legislative Process adjourned.]

COMMITTEE IMPROVEMENT AMENDMENTS OF 1981

MONDAY, JULY 13, 1981

House of Representatives,
Subcommittees on the Legislative Process
and on Rules of the House,
Committee on Rules,
Washington, D.C.

The subcommittees met, pursuant to call, at 2:05 p.m., in room H-313, the Capitol, Hon. John Joseph Moakley (chairman of the Subcommittee on Rules of the House) presiding.

Present: Representatives Moakley, Long, Beilenson, Frost, and Lott.

Mr. **Moakley**. The subcommittee will come to order.

I am particularly pleased to convene the first joint hearing in the 97th Congress conducted by the Subcommittee on Rules of the House and the Subcommittee on the Legislative Process.

The resolution which we will be considering this afternoon, House Resolution 100, the Congressional Improvement Amendments of 1981, includes matters within the jurisdictions of both our subcommittees. This hearing format is most appropriate for achieving a coherent overview of Representative Lott's proposals.

I think I express the feelings of all our Members in commending Trent for focusing attention upon legislative process and congressional institutions.

Too often, we in the Congress become more concerned with substance of legislation and give too little attention to the procedures by which we make laws and conduct oversight.

Achieving systematic program review and improving legislative drafting are goals both Chairman Long and I share.

We are delighted to have as our first witness this afternoon Representative Lott, the author of H. Res 100, a respected member of both our subcommittees, and Representative Toby Moffett who has given much thought to the issues we will be discussing this afternoon.

I would like to defer to a good friend and colleague, Chairman Long, so he may make a few remarks at this time.

Mr. **Long**. Thank you, Mr. Chairman. I would like to join you in welcoming our distinguished colleague, the minority whip, Mr. Lott, to testify on his resolution, House Resolution 100.

Mr. Lott serves on both Rules Subcommittees and is the ranking minority member on the subcommittee which I chair on the legislative process.

House Resolution 100 proposes several changes in House procedures.

Section 1 of that bill has been referred to my subcommittee, and for that reason is of particular interest to me.

During the 96th Congress the Subcommittee on the Legislative Process developed and reported to the full committee a bill, H.R. 5858, to establish procedures to improve legislative oversight of Federal activities.

The subcommittee staff spent many hours on research, briefings, and hearings in our effort to design a workable oversight process.

At the first hearing of our subcommittee in the 96th Congress, I stated my belief that the American people were demanding more efficient and less costly Government, and that better review by the Congress could provide a key toward achieving that end.

In view of the recent experience we had with budget reconciliation, I am even more convinced that meaningful program review is not only beneficial, but is an absolute necessity if we are to make informed budget choices.

I do raise the side question as to whether or not we get an opportunity to make those choices. I think the legislative procedure followed in reconciliation in this last instance left something to be desired.

For that reason the Subcommittee on the Legislative Process will be holding fall hearings to take a comprehensive look at the way we conduct oversight of Federal programs.

We will be comparing the various proposals, oversight, program review, including section 1 of House Resolution 100, which, as I mentioned before, has been referred to my subcommittee.

[The text of H. Res. 100 follows:]

IV

97th CONGRESS
1st Session

H. RES. 100

To amend the Rules of the House of Representatives for the purpose of strengthening and making more accountable the committee system and thereby making the legislative process more efficient, manageable, and representative.

IN THE HOUSE OF REPRESENTATIVES

March 4, 1981

Mr. Lott submitted the following resolution; which was referred to the Committee on Rules

April 30, 1981

Additional sponsors: Mr. Badham, Mr. Bafalis, Mr. Benedict, Mr. Bereuter, Mr. Bliley, Mr. Brown of Colorado, Mr. Broyhill, Mr. Burgener, Mr. Butler, Mr. Campbell, Mr. Cheney, Mr. Coats, Mr. Collins of Texas, Mr. Corcoran, Mr. James K. Coyne, Mr. Craig, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Deckard, Mr. DeNardis, Mr. Derwinski, Mr. Emerson, Mr. Emery, Mr. Erdahl, Mr. Erlenborn, Mr. Evans of Delaware, Mrs. Fenwick, Mr. Fields, Mr. Findley, Mr. Forsythe, Mr. Frenzel, Mr. Gilman, Mr. Gingrich, Mr. Gradison, Mr. Gregg, Mr. Grisham, Mr. Gunderson, Mr. Hansen of Utah, Mr. Hartnett, Mr. Hendon, Mr. Hiler, Mr. Horton, Mr. Jeffries, Mr. Johnston, Mr. Lagomarsino, Mr. Latta, Mr. LeBoutillier, Mr. Lent, Mr. Livingston, Mr. Loeffler, Mr. Lowery of California, Mr. Lungren, Mr. McClory, Mr. McCloskey, Mr. McCollum, Mr. McDonald, Mr. McEwen, Mr. McGrath, Mr. McKinney, Mr. Madigan, Mr. Martin of New York, Mr. Martin of North Carolina, Mr. Michel, Mr. Miller of Ohio, Mr. Moore, Mr. Moorhead, Mr. O'Brien, Mr. Parris, Mr. Pashayan, Mr. Paul, Mr. Pritchard, Mr. Railsback, Mr. Rinaldo, Mr. Roberts of Kansas, Mr. Rogers, Mr. Rousselot, Mr. Sawyer, Mr. Sensenbrenner, Mr. Shaw, Mr. Skeen, Mr. Smith of Alabama, Mr. Smith of New Jersey, Mr. Solomon, Mr. Stangeland, Mr. Stanton of Ohio, Mr. Staton of West Virginia, Mr. Tauke, Mr. Taylor, Mr. Thomas, Mr. Walker, Mr. Weber of Ohio, Mr. Weber of Minnesota, Mr. Whitehurst, Mr. Winn, Mr. Wolf, Mr. Young of Florida, Mr.

BAILEY of Missouri, Mr. KEMP, Ms. MARTIN of Illinois, Mr. COURTER, and Mr. HUNTER

RESOLUTION

To amend the Rules of the House of Representatives for the purpose of strengthening and making more accountable the committee system and thereby making the legislative process more efficient, manageable, and representative.

Resolved, That this resolution may be cited as the "Committee Improvement Amendments of 1981".

OVERSIGHT AGENDAS

SECTION 1. Rule X of the Rules of the House of Representatives is amended in the following way:

In rule X, clause 2(c) is amended to read as follows:

"(c)(1) Not later than sixty days after the Congress convenes, each standing committee shall formally adopt and submit to the Committee on Government Operations an oversight agenda for that Congress. Such oversight agenda shall indicate the oversight priorities of the committee, and may specify the date or dates by which the committee intends to complete its oversight activities and report its findings and recommendations to the House.

"(2) The Committee on Government Operations shall hold hearings at which the chairman and ranking minority member of each committee shall appear and testify on the oversight accomplishments of their committee during the preceding Congress and their proposed oversight agenda for the new Congress.

"(3) Not later than ninety days after the Congress convenes, and after consultation with the majority and minority leaders of the House, the Committee on Government Operations shall consolidate the oversight agendas of all committees into a single House oversight agenda resolution which shall be reported to the House. Such resolution may contain only such changes in the original committee oversight agendas as are agreed to by the chairman and ranking minority member of each committee to insure proper coordination and eliminate unnecessary duplication with the oversight plans of other committees. The report on any such plans may include additional recommendations for changes in the oversight agendas as may be recommended by the Committee on Government Operations or by the majority or minority leaders of the House.

"(4) The House oversight agenda resolution shall be privileged in the House and subject only to such amendments as may be offered by direction of the Committee on Government Operations or by the majority or minority leaders. The House shall complete action on the oversight agenda resolution no later than one hundred days after Congress convenes.".

MULTIPLE REFERRAL LIMITATION

SEC. 2. Rule X of the Rules of the House of Representatives is amended in the following way:

In rule X, clause 5(c) is amended to read as follows:

"(c) In carrying out paragraphs (a) and (b) with respect to any matter, the Speaker shall initially refer the matter to one committee which he shall designate as the committee of principal jurisdiction; but he may also refer the matter to one or more additional committees, for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the committee of principal jurisdiction; or refer portions of the matter to one or more additional committees (reflecting different subjects and jurisdictions) for the exclusive consideration of such portion or portions; or refer the matter to a special or ad hoc committee appointed by the Speaker with the approval of the House (from the members of the committees having legislative jurisdiction) for the specific purpose of considering that matter and reporting to the House thereon; or make such other provision as may be considered appropriate.".

PARTY RATIOS ON COMMITTEES

SEC. 3. Rule X of the Rules of the House of Representatives is amended in the following way:

In rule X, clause 6(a)(1) is amended by adding at the end thereof the following: "Except as provided in subparagraph (2), the membership of each committee (and of each subcommittee, task force, or subunit thereof), shall reflect the ratio of majority to minority party Members of the House at the beginning of each Congress."; and

In rule X, clause 6(e) is amended by adding at the end thereof the following: "The membership of each such select committee (and of each subcommittee, task force, or subunit thereof), and of each such conference committee, shall reflect the ratio of majority to minority Members of the House at the time of its appointment.".

SUBCOMMITTEE LIMITS

SEC. 4. Rule X of the Rules of the House of Representatives is amended in the following way:

In rule X, clause 6(c) is amended to read as follows:

"(c)(1) Each standing committee of the House of Representatives (except the Committee on the Budget) that has more than twenty members, shall establish at least four subcommittees; but in no event shall any standing committee (except the Committee on Appropriations) establish more than six subcommittees.

"(2) No Member may serve at any one time as a member of more than four subcommittees of committees of the House of Representatives.

"(3) For the purposes of this paragraph the term 'subcommittee' includes any panel, task force, special subcommittee, or any subunit of a standing committee which is established for a period of longer than six months.".

PROXY VOTING BAN

SEC. 5. Rule XI of the Rules of the House of Representatives is amended in the following way:

In rule XI, clause 2(f) is amended to read as follows:

"(f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy.".

MAJORITY QUORUM

SEC. 6. Rule XI of the Rules of the House of Representatives is amended in the following way:

In rule XI, clause 2(h)(2) is amended to read as follows:

"(2) A majority of the members of each committee or subcommittee shall constitute a quorum for the transaction of any business, including the markup of legislation.".

STAFF CEILING

SEC. 7. Rule XI of the Rules of the House of Representatives is amended in the following way:

In rule X, clause 5 is amended by inserting the following new paragraph (a) and redesignating existing paragraphs accordingly:

"(a)(1) It shall not be in order in the House to consider any primary expense resolution until the Committee on House Administration has reported and the House has adopted a resolution establishing an overall ceiling for committee staff personnel for that year.

"(2) In developing any primary expense resolution for House committees, the Committee on House Administration shall specify in the resolution the number of staff positions authorized by the resolution. The committee shall indicate in the report on any such primary expense resolution that the number of staff positions authorized by such resolution is in conformity with the overall ceiling on such positions established by the House.

"(3) In no event shall the total number of additional staff positions authorized by all such primary expense resolutions, taken together with the number of staff positions authorized by clause 6 of this rule, exceed the ceiling established by the House for that year.

"(4) In allocating staff positions pursuant to the overall ceiling established by the House, the committee shall take into account the past and anticipated legislative and oversight activities of each committee.

"(5) In any supplemental expense resolution, the committee shall specify the number of additional staff positions, if any, authorized by such resolution, and shall indicate in the report on any such resolution whether the additional staff positions are in conformity with or exceed the overall ceiling established by the House.

"(6) It shall not be in order in the House to consider any supplemental expense resolution authorizing additional staff positions in excess of the ceiling established by the House except by a vote of two-thirds of the Members voting, a quorum being present.".

Mr. **Long**. I welcome the opportunity, Mr. Lott, to hear your proposal in detail.

I think it will be a focus and the kickoff of our subcommittee hearings a few months from now.

STATEMENT OF HON. TRENT LOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. **Lott**. First off, I would like to apologize for being a little late.

Mr. **Moakley**. Maybe you would like to start your testimony by letting us know what went on downstairs.

Mr. **Lott**. We were having a meeting with the Speaker and the leaders on both sides of the aisle, talking about reconciliation, the conference, the timeframe, the rules for the conference. I think it went well.

We will be going to conference real soon. It will be very interesting to see how it works out.

I would like to start off by thanking you two gentlemen as chairmen of our subcommittees of the full Rules Committee for giving me this opportunity to talk about H. Res. 100, the Committee Improvement Amendments of 1981.

I think you both know I really do not view this as anything that I have personal pride of authorship in because most of these ideas have been advanced either by Chairman Bolling in years gone by, in the book he has written, by the Legislative Process Subcommittee last year, by the Patterson Select Committee last year, or in the previous Congress.

These are ideas that have been presented along the way that make a lot of sense to me. So there is nothing particularly strong as far as personal pride of authorship and I do not view it as a partisan matter.

I know you all do not.

These are some ideas that have been brewing for a long time—basically simple—that could make a real difference in helping this House work more effectively.

I have talked to the gentleman from Connecticut. There is a feeling on his part, a lot of the Democrats, Liberals, Conservatives, that there are things we can do that would make this House work better. That is all I have in mind in trying to present some of these suggestions.

I especially want to commend our chairman of the full committee for referring this resolution to the subcommittees. As the Patterson Select Committee on Committees concluded last year in its final report, select committees are probably not the best vehicles for attempting these institutional changes.

I agree with that very strongly. We have seen it tried by select committees twice since I have been in Congress for 9 years. That select committee went on to say that they thought the Rules Committee would be the one to do it.

The minority views added:

> The Committee on Rules possesses the necessary continuity. experience and considerable authority that is required to deal intelligently and effectively with institutional problems generally and with committee system revision in particular.

It went on to say that this committee should:

> Employ its augmented resources to remedy what its distinguished chairman has characterized as a House Out of Order.

The underlying premise of my amendments is that indeed the House is out of order and the committee system is in disarray.

As a result, we are not doing as good a job at being the great representative body we should be. I am not alone in this view.

Nearly 70 percent of the House respondents to the select committee survey in the last Congress agreed with the statement that our committee system is in disarray and not working the way it should.

This assessment is shared by political scientists and other students of the Congress.

It is not difficult to identify and define the underlying causes of this breakdown. This is the growing independence of Members and the consequent loosening of party ties and discipline which we see around here quite a bit; the factionalization of the political process with the growth of special interest and single interest groups of all persuasions, and the resultant difficulty in getting national consensus on major issues as we really should.

Also, of course, here in the House we have the decentralization of power where now we have so many subcommittees that have become in many instances kingdoms of their own and we have seen our Members just become tremendously overloaded with work, subcommittees where we spend so much of our time shuttling back and forth between subcommittees, between jurisdictions, between major problems—it is awfully hard to make an intelligent, conscientious decision on a lot of the legislation we have to deal with.

Identifying the problem is one thing. That is fine. Doing something about it is quite another. We have learned very painfully, as the gentlemen from Louisiana and Massachusetts know, in the past, every time you start trying to do this you are on somebody's turf.

You try to make a change in the numbers of subcommittees. If the subcommittee is done away with, somebody loses a subcommittee chairmanship.

You try to do away with Post Office and Civil Service or the Merchant Marine Committee and all hell breaks lose.

Not only the Democratic chairmen, but the Republicans and Democrats start fighting like tigers. You wind up having a situation as we have had at least twice in recent years where you get nothing. So maybe if we look at this thing we can find some areas where it won't blow somebody's head off, but make substantial improvement in the way we operate around here.

It will take a little discipline. It will involve some institutional change, but I don't think it is the kind of thing we can wait on much longer.

I really feel that we have an institutional problem here in the House. If we do not start making some rules changes, just minimal ones, we are going to continue to lose ground.

It has been said to the British Parliament that you have to reform sometimes in order that you may preserve.

In other words, if you are going to continue to do the job you were supposed to be doing, you are going to have to make some minimal changes. That was said 150 years ago.

I think it is just as applicable today.

Woodrow Wilson wrote in 1885 in his Treatise on Congressional Government that:

> Congress in session is on public exhibition, whilst Congress in its committee rooms is Congress at work.

I believe that. I do think we are developing some real problems though in our committees, with one-third quorums, with proxy voting, and with the proliferation of subcommittees with the split jurisdictions that we are faced with, with bills being referred to two or three committees.

As you know, that causes problems and I mention the proliferation of committee staff too. I think you all know one of the things every standing staff does is create more work for the Members. They are trying to do a good job. We wind up the more we have staff, the better the job they do, the more there is for us to do.

We need to deal with these things.

So I refer to this bill as a blueprint for a House that works.

Maybe that is what we need to come up with as we take a look at some of the things the Bolling Select Committee did and look at some of their suggestions.

Of course, Chairman Bolling referred to the committees as the nerve ends of Congress, the gatherers of information, the sifters of alternatives, the refiners of legislation.

Few organizations are so critical to the continued effectiveness of Congress as a policymaking body. Obviously these nerve ends are getting rubbed pretty raw.

We need to start looking for alternatives.

The first part of this package that I have produced here that I would like to refer to is section 4. I think the heart of this committee improvement package is that we drastically need to reduce the number of subcommittees. This section 4 would limit all standing committees, except Appropriations, to no more than six subcommittees, and all members to no more than four standing subcommittee assignments.

This is virtually identical to a proposal reported by the Patterson Select Committee on Committees in the last Congress.

When the Members were surveyed by the Select Committee, 87 percent agreed the number of subcommittees should be reduced, and 82.6 percent agreed that a limitation should be placed on Member subcommittee assignments.

Sixty-four percent of the respondents felt committees should be limited to 6 or less subcommittees, and 62 percent felt Members should be limited to four or less subcommittee assignments.

I can't think of any proposal which would do more to reduce the committee system overload and the conflict that develops between these subcommittees.

In the last Congress we did have 152 standing subcommittees. The Caucus of the Democratic Party actually reduced those. I think they should be commended for making a reduction. They brought it down, I believe, to a total of 141, from 152.

That is a start in the right direction, but I don't think it is enough. I think we need to reduce some more and this proposal I recommended would bring it down 17 more subcommittees to a total of 124 subcommittees. If in a couple of years we could bring it from 152 down to 124, that would have a substantial impact around here.

Section 2 of the resolution is also aimed at reducing workload of our committees. It would eliminate the practice of joint referrals of bills while retaining split and sequential referrals.

The current joint referral practice has guaranteed a duplication of effort and a marked increase in jurisdictional conflict, controversy and confusion.

The Select Committee on Committees in the last Congress found that multiple-referred bills consume four times as much hearing and meeting time and yet have less chance of being reported or passed than singly referred bills.

This proposal that I am suggesting here is similar to the one put forward by the select committee in that last Congress.

Joint referrals would be abolished and instead the Speaker would initially designate a committee of principal jurisdiction to consider a measure.

As a matter of fact, I have always thought where there was a question about who should be referred legislation, and the Speaker didn't want to do it, that it would be a good thing for the Rules Committee to do. That would take the heat off the Speaker.

That is going beyond what I am proposing, but it would give the Rules Committee another area where maybe we could referee a fight.

At the same time the Speaker would be given additional discretionary authority for sequentially referring a measure either on its introduction or after it has been reported by the principal committee.

As I already mentioned, the current practice of split referral on the same bill would be retained. I think this is a reasonable compromise that recognizes legitimate jurisdictional concerns while avoiding many of the problems which result from joint referral procedure.

With the reduction of subcommittees and assignments and the elimination of joint referrals, I think we can abolish the phantom legislative devices of one-third quorums and proxy voting.

Again I don't intend this to be a partisan thing. We don't have proxy voting in the Rules Committee. It works pretty well. You know what it does? It results in us being here. We probably have one of the best attendance records of any committee in the House.

Mr. MOAKLEY. That is because we are an exclusive committee.

Mr. LOTT. That is true. I admit that.

We don't have so many subcommittees that we are running all over the place. If we had proxy voting, I dare say we would have instances when Members would not be here. They could just leave their proxy with somebody. There is something that has always offended me about somebody having a bunch of proxies in his pocket.

I would feel the same way if I were chairman of the committee. I have seen it done in Judiciary, Merchant Marine and Fisheries, Post Office, and Civil Service.

It is not much of a way to legislate. Abolishing proxy voting is something the House voted to do back in 1974, but then it reversed itself in the next Congress in the House Rules resolution reported by the Democratic Caucus.

Section 6 of my bill would restore the majority quorum requirement for the transaction of any business, including the markup of legislation, returning us to the practice that existed prior to 1977.

We have just recently gotten into this procedure. I won't comment on how we got into it, but it had not been the practice before 1977.

I believe the record will show that that would go back for years.

Again it is a sloppy way to legislate and do business.

I think a lot of the same arguments apply with equal force to section 3 of the resolution which would require the committee party ratios and subcommittees reflect the overall party ratio of the House. This one you might say is more partisan, but I don't think it is a partisan matter.

A lot of what was said in the Patterson committee in its report reflects that.

First, let me give you other statistics.

I think there are precedents in the Rules Committee and Ways and Means of having a greater representation of the majority. I do have to question 69 percent in the case of Rules and 66 percent in the case of Ways and Means.

I think it contributes to us getting in trouble on the floor of the House. I think it contributes to the proliferation of amendments when we get to the floor of the House because of not just Ways and Means and Rules, but, as I go down your list of ranking or how many Members are on committees and the percentages, very few of our committees actually reflect the percentage makeup of the House.

Maybe it is just one or two Members difference in a lot of them, but in many of them that can make a difference.

Today the House makeup is 55.86 Democrats, 44.14 Republican. Yet Education and Labor is off 2 or 3 percentage points. That would mean a Member or two.

In the case of Education and Labor, it might make a difference. You can go down the list. You see in almost every instance the committees do not reflect the makeup of the whole House.

The Patterson Committee said in their report:

> Establishing committee ratios which inadequately correspond to the political cast of the full House, in effect, disparages the basic principles of Democratic representation.
>
> Party alinements in the House reflect the conscious choices made by the American electorate every 2 years.

The chapter goes on to say:

> This popularly decided division of partisan strength one assumes should be mirrored in all aspects of the congressional process. Yet the systematic skewing of ratios has discounted the effective participation of the minority at the focal point of legislative determination—the committee system.

Perhaps just as important as the committee's legislative procedures is their oversight responsibility.

Again I know you two gentlemen feel strongly about oversight responsibility and are looking for ways to make it more effective here in the House so we can do our job better there. We haven't been doing it.

Seventy-five percent of House respondents in last year's Select Committee survey felt the House was not doing an adequate job on oversight. We are just not doing it.

Obviously it is because we don't have enough time. We are too busy priming the pump and looking at other things that need to be done.

It is very understandable. I personally really think that probably 50 percent of our time should be spent on oversight and investigation instead of always coming up with new ideas and passing new proposals without going back and looking at what we have done or what is being done.

As Democrats now, with a Republican administration, I would think you would feel even stronger about it. What is the administration doing in the various agencies and departments to carry out the legislative intent?

They may not be doing it the way they should. I might be one of the first ones to agree with you. That is why I am still, regardless of this administration's position, an advocate of legislative veto.

I think we need to, instead of having 150 different versions of it, I think we need one agreed-upon legislative veto procedure, one that hopefully the administration can accept.

Section 1 of my resolution has been referred to the subcommittee on the Legislative Process. It is offered as an alternative idea to the more rigid oversight procedures, and I refer to them as rigid oversight procedures, which are contained in H.R. 2, the Sunset Act, and H.R. 58, the Sunset Review Act.

Despite the large number of cosponsors—and I have been one of them in the past—I sense that the enthusiasm for Sunset is waning, and to quote Senator Eagleton, "Sunset is an idea whose time has come and gone."

If you accept that or even if you don't, to have some alternative oversight procedures to me makes good sense. Unlike H.R. 2 or H.R. 58, this proposal does not tie oversight agendas to the authorization process directly, though obviously committees would have upcoming reauthorizations in mind in formulating their oversight plans.

Under existing House rules at the beginning of each Congress appropriate representatives of the Committee on Government Operations shall meet with appropriate representatives of the other committees of the House to discuss the oversight plans of such committee.

Then the Government Operations Committee must publish their oversight plans within 60 days after the convening of the new Congress and make any recommendations for coordination of such activities.

One of the two big problems with that—two or three maybe—first of all it never has been done effectively. We all know that.

We just don't pay that much attention to it.

Second, appropriate representatives. You know what that really means?

Intrastaff negotiations.

Staff gets together and kicks it around a little bit and decides what it is going to be. Consistently in its report, the Government Operations Committee has criticized the 60-day reporting requirement. In this year's preface, it has indicated that it still is not convinced that as presently structured this is the most effective solution to the problems of coordinating the oversight activities of the standing committees of the House. That is the Government Operations Committee speaking.

My resolution addresses these problems of inadquate committee participation in oversight planning and development and all the other problems in this way:

First, committees would have 60 days in which to consider and formally adopt their oversight agendas for the new Congress.

Second, the Committee on Government Operations would hold hearings on those plans at which the chairman and ranking minority member of each committee would appear and testify.

Third, the Committee on Government Operations would report a consolidated oversight agenda resolution not later than 90 days after Congress convenes and the resolution may only contain such changes as may have been agreed to by the chairman and ranking minority member of the committee involved in order to insure proper coordination and avoid unnecessary duplication.

Fourth, the oversight agenda resolution would only be subject to amendments offered by direction of the Government Operations Committee, or the majority and minority leaders.

I might add that again this is one of the options considered by the Bolling Select Committee in the 93d Congress as I know you remember, Gillis.

It draws really on the work of the Legislative Process Subcommittee of last Congress.

I won't go into that further. We will be talking about it in another forum.

My final proposal contained in section 7 of the resolution would require the House to vote on an overall committee staff ceiling at the beginning of each year. This is an idea again that came from another jurisdiction, in this case, the Schroeder-Breaux task force of the Select Committee on Committees in the last Congress.

Here is what their report said:

> The establishment of an aggregate ceiling would force committees to justify more specifically their staffing needs in annual funding requests.
>
> Committees would know that their requests would be balanced against those from other committees and would be forced to limit their requests only to those new positions for which a strong need existed.

Under this resolution the House could not consider any primary expense resolution until the House had adopted an overall committee staff ceiling resolution reported by the Committee on House Administration.

House Administration has a tough job now. They have to listen to each one of these individual committees that come in and make their pitch for what their staff needs are. It is kind of like what we used to have around here on the budget process.

We had 15 little fiefdoms within the Appropriations Committee, and neither one paid attention to what the other was doing or to the overall aggregate.

I think that is what led to the Budget Impoundment Act of 1973 or 1974. We needed some way to look at the overall ceiling.

That is what I am suggesting here with staff. Let us look at what we are doing, how it will be interpreted by the American people, what the real needs are, and divide the pie up accordingly.

Our staffs have grown between 1973 and 1979 from 918 committee staffs at a cost of $14 million, to 1,939 at a cost of over $40 million.

It is time to take a look at it. I think that basically is sort of a summation of my prepared statement.

I would like to ask unanimous consent of the subcommittee to include my statement in the record as I had it prepared here.

Mr. MOAKLEY. Without objection.

[Mr. Lott's prepared statement follows:]

PREPARED STATEMENT OF HON. TRENT LOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Messrs. Cochairmen and members of the subcommittees, I am grateful to the Subcommittees on Rules and Legislative Process for holding these joint hearings on H. Res. 100, the "Committee Improvement Amendments of 1981," which currently has 104 cosponsors.

I especially want to commend the chairman of the committee for referring this resolution to the subcommittees. As the Patterson Select Committee on Committees reluctantly concluded in its final report last year, select committees may not be the appropriate vehicles for attempting institutional changes, and such efforts may have a greater chance for success if drafted, promoted and managed by a standing committee. And the minority views to that report added, "The Committee on Rules possesses the necessary continuity, experience and considerable authority that is required to deal intelligently and effectively with institutional problems generally and with committee system revision in particular." The minority went on to urge this committee "to employ its augmented resources to remedy what its distinguished chairman has characterized as a 'House Out of Order.'."

The underlying premise of my "Committee Improvement Amendments" is that this is indeed a House out of order—our committee system is in disarray, and, as a result, our representative form of government as we know it is in danger of collapse. And I am not alone in this view. Nearly 70 percent of the House respondents to a select committee survey in the last Congress agreed with the statement that our committee system is in disarray. And this assessment is shared by numerous political scientists and other students of the Congress.

It is not difficult to identify the underlying causes of this breakdown in the legislative process in the House: the growing independence of Members and consequent loosening of party ties and discipline; the factionalization of the political process with the growth of single-issue interest groups and resultant difficulty in achieving a national consensus on major issues; the decentralization of power in the House with the proliferation of semi-autonomous subcommittees and the consequent jurisdictional duplication and conflict; and a system overload that has Members spread so thinly over such a sprawling subcommittee maze as to make intelligent and conscientious deliberation and decision-making an almost impossible task.

Identifying a problem is one thing. Doing something about it is quite another. As we have painfully learned from past reform efforts, any proposals for institutional improvement will run up against powerful resistance because they necessarily involve some new sacrifice of power, prerogatives and turf. They also often involve the imposition of new self-disciplines which we are reluctant to embrace in the free-wheeling-and-dealing political arena to which we have grown accustomed. But I would submit that institutional change and improvement is no longer some luxury which we can indulge when it suits us. It is now a necessity which is critical to the survival of our democratic system of government. Lord Macaulay once advised the British Parliament to "reform, that you may preserve." That advice, given some 150 years ago, is just as relevant to our situation in the House today.

Woodrow Wilson wrote in his 1885 treatise on "congressional government" that, "Congress in session is Congress on public exhibition, whilst Congress in its committee rooms is Congress at work." Yet it's a wonder today that Congress gets any work done. Members complain that they spend more time shuttling back and forth between committee and subcommittee meetings and hearings and floor votes than they do in actual committee work. It's little wonder that we've had to resort in recent times to such phantom legislative devices as one-third quorums and proxy voting to markup legislation. Yet is this any way to write our Nation's laws that affect tens of millions of people and involve tens of billions of taxpayers' dollars?

I think it's high time we recognized that this House is not working as it should and that what is clearly needed is a new "Blueprint for a House that Works." That's what I've termed my package of "committee improvement amendments." It recognizes that the very heart of the legislative process—the committee system—is badly flawed and in need of repair. The Bolling Select Committee on Committees in the 93rd Congress observed that, "Committees are the nerve ends of Congress—the gatherers of information, the sifters of alternatives, the refiners of legislation. Few organizations are so critical to the continued effectiveness of Congress as a policy-making body." Yet those very nerve ends are being rubbed exceedingly raw by our existing organization and procedures.

At the heart of my committee improvement package is the belief that we must drastically reduce the number of subcommittees which have spawned more problems than solutions in this body. Section 4 of my resolution would limit all standing committees, except Appropriations, to no more than six subcommittees, and all Members to no more than four standing subcommittee assignments. This is virtually identical to a proposal reported by the Patterson Select Committee on Committees in the last Congress. Moreover, the Member survey conducted by that select committee revealed that 81 percent of the Members agreed that the number of subcommittees should be reduced, and 82.6 percent agreed that a limitation should be placed on Member subcommittee assignments. Sixty-four percent of the respondents felt committees should be limited to six or less subcommittees, and 62 percent felt Members should be limited to four or less subcommittee assignments.

I can't think of any proposal which would do more to reduce system overload and conflict than these two reforms. In the last Congress we had 152 standing subcommittees in the House. As a result of a Democratic Caucus rule in this Congress, limiting committees to eight subcommittees or the number they had in the last Congress, whichever is fewer, we've brought the total down to 141. But that's still far too many. My proposal would result in a further reduction of some 17 subcommittees, bringing the total down to 124.

Section 2 of my resolution is also aimed at reducing the workload of our committees. It would eliminate the practice of joint referral of bills, while retaining split and sequential referrals. The current joint referral practice has guaranteed a duplication of effort and a marked increase in jurisdictional conflict, controversy and confusion. The Select Committee on Committees in the last Congress found that multiple referred bills consume four times as much hearing and meeting time and yet have less chance of being reported or passed than singly referred bills.

My proposal is similar to one put forward by the select committee in the last Congress. Joint referrals would be abolished and instead the Speaker would initially designate a committee of principal jurisdiction to consider a measure. At the same time the Speaker would be given additional discretionary authority for sequentially referring a measure, either on its introduction or after it has been reported from the principal committee. And, as I already mentioned, the current practice of split referral of the same bill would be retained. I think this is a reasonable compromise that recognizes legitimate jurisdictional concerns while avoiding many of the problems which currently result from the joint referral procedure.

With the reduction of subcommittees and assignments and the elimination of joint referrals, I think we can abolish the phantom legislative devices of one-third quorums and proxy voting. Section 5 of my resolution would abolish all proxy voting—something which the House voted to do back in 1974 but which was reversed at the beginning of the next Congress in the House Rules resolution reported from the Democratic Caucus. Section 6 of my bill would restore the majority quorum requirement for the transaction of any business, including the markup of legislation, returning us to the practice which existed prior to 1977.

I cannot stress enough the importance of insuring that our committees and subcommittees act in a more responsible, conscientious and representative manner in considering legislation which will be reported to the House. To the extent that we have permitted phantom legislating in committees and subcommittees through mini-quorums and proxy voting, we have only guaranteed that a more flawed legislative product will be reported to the House. And I think this explains in large part why we've witnessed such an explosion of amendments when these bills reach the House floor. To the extent that the committees and subcommittees have not adequately reflected House sentiment in their work, the House has had to rewrite their bills on the floor.

This same argument applies with equal force to section 3 of my resolution which would require that the party ratios on committees and subcommittees reflect the overall party ratio of the House. I do not consider this a partisan matter, as some have lightly dismissed it. The shoe may just as easily be on the other foot in the next Congress. Rather, it is a matter of fairness, equity, of minority rights, and of basic democratic theory and practice. I appreciate that there is some precedent for having greater majority representation on the Rules, Appropriations and Ways and Means Committee; but there is no justification whatsoever in our precedents for the bloated majorities which have been retained this year on the Rules and Ways and Means Committees—69 and 66 percent Democrat, respectively. I strongly suspect that this blatant departure from precedent will come back to haunt the majority party when the tax bill finally reaches the floor with whatever conditions of debate may be imposed by the rules reported from this committee.

The issue of equitable party representation on committees was eloquently addressed in a chapter of the final report of the Select Committee on Committees in the last Congress, and I quote:

"Establishing committee ratios which inadequately correspond to the political cast of the full House in effect, disparages the basic principles of democratic representation. Party alignments in the House reflect the conscious choices made by the American electorate every two years."

And the chapter goes on, and again I quote:

"This popularly-decided division of partisan strength, one assumes, should be mirrored in all aspects of the congressional process. Yet the systematic skewing of ratios has discounted the effective participation of the minority at the focal point of legislative determination—the committee system."

Perhaps just as important as our committees' legislative procedures is their oversight responsibility. This is particularly true in this era of budgetary constraints and spending reductions imposed by the reconciliation process of the Budget Act. Our committees must be in a better position to intelligently determine which programs and agencies are working as they should and which are not. And yet, some 75 percent of the House respondents in last year's select committee survey felt that the House was not doing an adequate job at oversight.

Section 1 of my resolution, which has been referred to the Subcommittee on Legislative Process, is offered as an alternative to the more rigid oversight procedures which would be imposed by H.R. 1, the "Sunset Act," and H.R. 58, the "Sunset Review Act." Despite the large number of cosponsors of such measures in the House, I sense that enthusiasm for such new disciplines as would be ordained by these bills, is on the wane. One of the past strong supporters of sunset legislation in the other body, Senator Eagleton, recently expressed the view that, "Sunset is an idea whose time has come and gone." Indeed, to the best of my knowledge, a sunset bill has not even been introduced in the other body.

Nevertheless, I do not think the waning interest in sunset legislation means there is not a need or desire for some form of strengthened oversight. My section 1 offers a flexible yet meaningful alternative. Unlike H.R. 1 and H.R. 58, it does not tie oversight agendas to the authorization process directly, though obviously committees would have upcoming reauthorizations in mind in formulating their oversight plans.

Under existing House Rules, at the beginning of each Congress "appropriate representatives of the Committee on Government Operations shall meet with appropriate representatives of the other committees of the House to discuss the oversight plans of such committees." The Government Operations Committee must then publish these oversight plans within 60-days after the convening of a new Congress, and may make any recommendations for coordination of such activities.

The problem with the present procedure is that "appropriate representatives" has been construed to permit an intra-staff operation, subject of course to supervision by committee chairmen. But, in most cases, committees are not formally involved in formulating their oversight plans for the Congress. I suspect there are many committee members who haven't even seen a copy of their oversight plan for this Congress. Part of the problem is that most committees are barely organized before these plans must be submitted. The Committee on Government Operations has repeatedly criticized this 60-day reporting requirement in the preface to its reports. In addition, in this year's preface it has indicated that it "is still not convinced that, as presently structured, this is the most effective solution to the problems of coordinating the oversight activities of the standing committees of the House."

My resolution addresses these problems of inadequate committee participation in oversight plan development, unrealistic time frames, and coordination, in the following ways: First, committees would have 60-days in which to consider and formally adopt their oversight agendas for the new Congress; secondly, the Committee on Government Operations would hold hearings on these plans at which the chairman and ranking minority member of each committee would appear and testify; third, the Committee on Government Operations would report a consolidated oversight agenda resolution not later that 90-days after Congress convenes, and the resolution may only contain such changes as may have been agreed to by the chairman and ranking minority member of the committee involved in order to insure proper coordination and avoid unnecessary duplication; and fourth, the oversight agenda resolution would only be subject to amendments offered by direction of the Government Operations Committee or the majority and minority leaders.

I might add that this is one of the options considered by the Bolling Select Committee in the 93rd Congress, and it also draws heavily on the work of the Legislative Process Subcommittee in the last Congress. It differs from the latter mainly in that it does not require action by both Houses, and it does not directly tie the oversight plans to subsequent authorization requirements. Obviously, it differs from H.R. 1 in that it contains no rigid timetables or program termination. I think Members are already straining under the requirements and timetables of the budget process and we should therefore avoid any burdensome new timetables and workloads. The important thing is that committees do pay more attention to their oversight responsibilities, and I think my proposal will accomplish that by requiring formal committee involvement in the development of oversight plans, and formal House endorsement of those plans, subject to limited changes proposed by the leadership and the Government Operations Committee.

My final proposal, contained in section 7 of the resolution, would require the House to vote on an overall committee staff ceiling at the beginning of each year. The survey of House Members conducted in the last Congress revealed that 63 percent think committee staffs are too big, 62 percent think this has contributed to the fragmentation and unmanageability of the committee system, and more than 80 percent think some kind of ceiling should be placed on committee staff overall.

I think the clash we had over committee staffs at the beginning of this year and the resultant reductions is a clear indication that this sentiment is just as strong in this Congress if not stronger. The House Administration Committee is understandably in a difficult position in attempting to arbitrate the competing demands for austerity and for more staff at the same time. I think that job would be made easier if the committee had clear direction from the House at the outset on an overall committee staff ceiling so that the committee-by-committee allocations could be made within that House-imposed framework.

I am indebted to the Schroeder-Breaux Task Force of the Select Committee on Committees in the last Congress for this proposal. To quote from their report:

"The establishment of an aggregate ceiling would force committees to justify more specifically their staffing needs in annual funding requests. Committees would know that their requests would be balanced against those from other committees, and would be forced to limit their requests only to those new positions for which a strong need existed."

Under my resolution, the House could not consider any primary expense resolution until the House had adopted an overall committee staff ceiling resolution reported from the Committee on House Administration. In allocating staff to committees in the subsequent primary expense resolutions, the House Administration Committee would take into account the past and anticipated legislative and oversight workloads of each committee. The total staff authorized in all such primary expense resolutions, taken together with the existing statutory staff, could not exceed the ceiling adopted by the House. Any subsequent supplemental expense resolutions which breached that ceiling could not be considered except by a two-thirds vote of the House.

The time has come to halt the exponential growth in staff which has occurred over the last decade. Between 1973 and 1979, committee staffs grew from 918 at a cost of $14 million, to 1,939 at a cost of over $40 million. I think we have reached a point of diminishing returns in terms of what can be accomplished with additional committee staff. We are still only 435 Members with a limited amount of time to accomplish our work. More staff only generate more work which we do not have time to do. This only means that more work and decisions are delegated to unelected staff, and this in turn poses a real danger to the representative nature of our government. Thank you.

Mr. Lott. I would be pleased to answer any questions and just add that I hope this subcommittee would look at this and maybe some other ideas and move quickly on some rules changes we could support on a bipartisan basis that would help us run this place a little better around here.

Mr. Moakley. Thank you very much for a very well documented presentation.

I don't think you have anybody on this panel who would object to the intent of your legislative proposal. Proposing to reduce subcommittee assignments reminds me of a similar problem which I encountered when I was chairman of the Committee on Public Lands—back in the Massachusetts Legislature around 1950.

We were given a mandate to find two State beaches for the Commonwealth of Massachusetts. The State has miles and miles of shore but it was being taken over by private owners. We had the old Colonial Act which held that if you had shorefront property, you owned it down to the low water mark. This meant the public couldn't swim on your property. Oddly enough, you could fish or fowl on it but not walk on the land. We were given a mandate to go out and find two State beaches in order to preserve some of the shoreline for the Commonwealth of Massachusetts.

Everybody thought it was a great idea, "but not in front of my house."

We ended up putting one on the New Hampshire border and one on the Rhode Island border. That is how we solved the problem. A lot of Members might say that reducing subcommittee assignments is a fine idea, as long as they aren't affected.

I think probably the way to implement your proposal is to wait until everybody is on recess and then act.

Mr. Lott. I am agreeable.

Mr. Moakley. In your testimony, you stated that the existing method of jointly referring legislation prevents much legislation from being enacted. Maybe that is not such a bad idea.

I don't think we would hear a hue and cry from our districts to pass more legislation. At one time, our constituents were looking for legislation, now it's just opposite.

Maybe the joint referral system is one way of keeping the amount of legislation enacted down to a minimum.

Mr. Lott. It does get to be awfully complicated though. I am afraid—I see a trend that maybe is being used more and more.

Maybe it will help to hold it down. It also makes it awfully complicated to legislate once you hit the floor.

Mr. Moakley. I agree with your proposal to reduce the number of subcommittees. However, I fear that your idea might really enhance the power of the subcommittees that remain and strengthen that so-called iron triangle composed of subcommittee staffs, Government agencies and the special interest groups. This is one serious reservation that I have.

You know, Gil Long and myself have been working on proposals which would streamline legislative procedure.

I am sure that some of your proposals will be taken into consideration when we act.

Gil?

Mr. Long. Thank you, Mr. Chairman.

Trent, your persistence in this matter is appreciated by me. It really is. I am like you. Very frustrated by the whole thing. Not only are you absolutely correct with respect to the fact that in many instances we have made very modest gains, but in some instances these modest gains have actually hurt because they were not adopted as part of a comprehensive plan.

We probably would have been better off had we not created all these subcommittees without giving the central authority some way to regulate the process. I guess the Democratic Caucus is primarily responsible for that.

I thought it was a bad mistake at the time. I voted against it. I think the adoption of just parts of the Bolling-Martin proposal—where that select committee did such a magnificent job—without adopting the disciplining parts, ended up doing more harm than good, if we balance the pluses and minuses.

Mr. LOTT. If I could right there, I think everybody agrees we need to do something, but we haven't been able to get anything through for the past 9 years.

Mr. LONG. That is the reason I wanted to talk to you a little bit about this whole question of how we go about it. I have about decided that the only way we are going to have any chance of getting anything done is to do one thing at a time.

Mr. LOTT. That may be the way we will have to do it.

One other alternative is to look around—in the Bolling Select Committee report, and Patterson too, there were a lot of things that were very good that a majority of Members would go along with, but they sank with the rest of it.

Mr. LONG. That is right.

Mr. LOTT. Let's see if we can look around and save a little time instead of doing it one by one; find half a dozen or a dozen that there is generally pretty unanimous strong feeling and not get into some of these.

If we don't want to cut the subcommittees back another 17 or so subcommittees, let her go.

But let's find the ones that we find we can get through that will improve us maybe just a little bit, but start moving in the right direction; try to get together a package of those and do those.

Mr. LONG. I wonder if we can't try a nonlegislative approach to correcting some of these problems. Let's take two of them which are directly related—the number of subcommittees, and proxy voting.

What if we went at it from the standpoint of having to report attendance at subcommittee meetings and votes cast at subcommittee meetings, and publicize those, just as we report record votes on the House floor?

Would that to some degree counterweigh the pressure that exists to stay on as many subcommittees as you can?

Are we going to have to resort to this report card approach in order to be able to get anything done?

Mr. LOTT. That has been used by both parties as a partisan campaign issue, as you know.

That would be one alternative to what might happen if Members insist on staying on too many subcommittees and stretching themselves too thin where they cannot do the job.

It still doesn't deal with the institutional problem.

Mr. LONG. I agree it doesn't deal with the institutional problem per se. I am concerned we are not going to be able to deal with the institutional problem per se until we relieve some of the pressures that caused it to move in the direction in which it has.

Mr. LOTT. If all else fails, we may have to try the stick approach.

Mr. LONG. Have you given any thought to what your position would be with respect to proxy voting in the unlikely and unhappy event that the minority gets control of the House of Representatives?

Mr. LOTT. Well, I had a couple of gratuitous remarks in my prepared statement along those lines which I chose to pass over.

You know, it is like so many things around here. The temptations that we face, and how it is different when your ox is being gored.

I say oh, God, give me the strength to remember those lessons and those beliefs that I had when the shoe is on the other foot, when I am in that position.

I am opposed to proxy voting in committees and I am going to be opposed to it next year, or next Congress when, hopefully, we will have a majority.

If we do, I want you to remind me.

Mr. LONG. I assure you I will.

Mr. MOAKLEY. I think he wants you to remind your friends.

Mr. LOTT. I can remember how I used to be absolutely opposed to closed rules. As we go along, I see myself voting more and more for so-called modified open rule because sometimes it is to the benefit of this administration or my party, but I still think it is something we are doing too often now and that we should be going the other way.

We should only have modified open rules in rare instances when an open rule just is not practical from the standpoint of getting the job done, where it involves a tax bill, as we always had back under the Wilbur Mills chairmanship.

In answer to your question, I want our conference to continue as it has every year that I have been in the Republican Conference to pass rules at the beginning of each session saying we are opposed to proxy voting and hope we will live up to it.

Mr. LONG. Let's turn from the general to the specifics of section 1, which my subcommittee is concerned with, because it has jurisdiction over that section. Unlike the legislative oversight measures that the subcommittee considered in the last Congress, your resolution applies only to the House and not to the House and the Senate?

Mr. LOTT. Right.

Mr. LONG. Give us your reasoning for choosing a one House type of procedure here.

Mr. LOTT. Well, I could give you a lot of reasons.

First, we are dealing here with the House, and I kind of view it as more than that, but it is at the very least an internal housekeeping matter, I think.

Beyond that, I would just as soon not have to hassle with the Senators. I don't enjoy working with them.

If they want to pass a similar type procedure, that would be fine, but I just do not think we ought to predicate in this instance what we do or do not do on what they might want to do or not do.

I just think it would facilitate our own operations to make it applicable to the House.

Mr. LONG. I am inclined to agree with you. I merely wanted your statements on the record.

Another pedestrian sort of point, but one that needs to be made, is this question of the timetable for legislative oversight.

You point out in your statement the problems that the Government Operations Committee has under the timetable now.

Do you think that your suggestions would in any way remedy that or perhaps complicate this timetable problem?

Mr. LOTT. I hope it would remedy it some. It would stretch it out some.

I realize we already have a lot of burdens on our authorization, appropriation, and the Budget Committee process now.

Whether or not we will have reconciliation in the form we had it this year, I don't know.

It is obvious that what we have now is not producing very much, and by setting up a procedure, I think it starts in a more orderly fashion with the committees first having 60 days to consider what they want to do and adopt something, and then have the Government Operations Committee have some hearings on it, look into what these plans are, hear from the chairmen instead of an intrastaff thing now which doesn't really amount to a hill of beans.

Then within 90 days—the first 90 days of a session is very hectic, but I like to think by having this procedure which actually involves the committees, then having testimony from the committee chairman and the ranking minority member, and then have the Government Operations Committee set out the oversight agenda resolution would be a positive step.

I realize it could actually wind up delaying some other matters that we need to take up, but I attach a lot of importance to oversight and the oversight agenda.

I am not saying that this is the answer. I am saying what we have is not working.

I would rather have something that would give us a timetable, but without being too rigid.

Mr. LONG. Related to the timetable question is the very complex question of what programs the committees have the responsibility to do oversight on; who makes the decision as to whether they do; is there a time period over a number of Congresses in which they have to look at every program within their jurisdiction; in how much detail do they look at them; would there be any automatic expiration at all if they did not perform an oversight function with respect to those particular programs during a specified period of time?

You didn't treat that. That really is the very, very difficult part of getting agreement out of them.

Mr. LOTT. That is the thing your subcommittee has been working on. We have heard a lot of testimony on it.

I do not speak to that here. In my own mind I don't envision at this point a termination or a sunset. I am just trying to set up some way for an oversight procedure.

At some point we may want to have a termination mechanism in there.

You raised another point, too. Over a period of time it may be that a committee—ordinarily I think the committees, where they have jurisdictions, that is where they would have oversight.

It may not be possible for their oversight to all be done in 1 year or even one Congress. I think that is part of the idea of setting up the agenda.

They would look at what they have got—maybe where there is a problem—and decide in this year or this Congress we are going to look at these areas.

It might actually be that it could go over a period of years. I don't feel that you can review everything.

Mr. LONG. What if you set up a situation where within five Congresses they had to do every program within their jurisdiction and the Agriculture Committee didn't bring up the tobacco program?

Suppose they sit back protecting, and never let the essence of the problem come up?

That is what we have a great deal of difficulty dealing with when attempting to devise a comprehensive process or procedure.

Mr. LOTT. It says the Committee on Government Operations would have hearings on the plan. Then the Committee on Government Operations would report a consolidated oversight agenda resolution.

I realize you get into turfs here and start stepping on toes. Conceivably Government Operations could say you didn't recommend this in your committee, but we are putting on your agenda that you have to look at tobacco.

Mr. LONG. Let me ask about something that you probably no longer are even willing to admit exists, either the term or the item.

That is, what about tax expenditure review?

Mr. LOTT. I think that contributed substantially to the demise of sunset legislation.

Mr. LONG. In other words, your program would not cover tax expenditure?

Mr. LOTT. I think in the overall oversight agenda, it could.

It could, yes.

Mr. LONG. Are you saying that you are advocating that?

Mr. LOTT. No. The difference is here though, a difference in sunset and an oversight review.

There is no automatic termination.

Mr. LONG. As you recall in H.R. 5858 we took out automatic termination because we determined, without hearings and looking at problems——

Mr. LOTT. I guess where I differ with some of our friends in the business community, the industrial community—and you do too, although I probably wouldn't go as far as you do—is to have a procedure to review some of this stuff in and of itself I don't think is that big a problem.

When there is a continuing threat hanging over a community, look, you may not have this tax deduction—I choose not to call it tax expenditure—in the next year; 2 or 3 years, then it gets to be a real impediment to them actually planning to take advantage of those opportunities, tax credits, whatever they might be, expansion, jobs, whatever.

To have an overall review of what we are doing with deductions or credits, I don't get that offended at that.

Mr. LONG. I think automatic termination really posed a major problem with respect to tax expenditures because corporations are much better than we are at doing long-range planning.

They need to have that stability in the rules and regulations. Of course, it is important in the authorization programs themselves, but to a lesser degree.

Mr. LOTT. The concern, of course, by the business and industrial community is that this is the first step in a process that would lead to some sort of termination of tax deductions or credits or whatever you might want to call them.

Mr. LONG. Thank you, Mr. Chairman.

Mr. MOAKLEY. Congressman Beilenson.

Mr. BEILENSON. Thank you, Mr. Chairman.

Actually our friend, Mr. Long, has covered just about everything, I guess.

I too want to commend our friend, Mr. Lott, for pushing this kind of legislation. It is something which I think all of us on this committee certainly agree with in general.

I find myself not disagreeing with anything he suggests except perhaps the section 6 restoration of the majority quorum requirement for transaction of any business.

Apparently it did work before 1977.

I don't know if there were problems with it.

My only concern is the possibility of all the minority members—whichever party that might be—staying away if someone else were absent on the other side and making the conduction of business just impossible by simply absenting oneself on purpose.

I don't know if that was ever a real problem or not. That is the only thing that occurs to me.

Mr. LOTT. I don't think there was much problem with it in the past. Obviously it is a sort of thing that can happen and does happen, as you know, probably in State legislatures.

Mr. BEILENSON. It didn't in ours. We had plenty of Democrats. We didn't have that problem.

Actually we wouldn't have any of these problems if we had more Democrats.

Mr. LOTT. Or more Republicans.

Mr. BEILENSON. With respect to the party ratios, I don't really disagree either except I think it is fair to point out that with the exception of the ones you are all aware of, Ways and Means and Rules, and apparently also——

Mr. LOTT. Budget and Appropriations.

Mr. BEILENSON. Yes, you are right.

The Intelligence Committee is out of whack. The others are quite close. They are perhaps only one Member off. If, in fact, the Democratic side lost one Member, it might fall below the——

Mr. LOTT. If it were just Rules and Ways and Means, or Ways and Means didn't happen to be so far apart, it would be more understandable.

Mr. BEILENSON. If all your people voted with us and all our people voted with you——

Mr. LOTT. Are you saying it is a good whip organization?

Mr. BEILENSON. I don't know why it is applicable to Budget and Appropriations to the extent it is. Then if you run down here, in a lot of instances, maybe it is no big problem in Energy and Commerce.

Mr. LONG. I want to compliment you on your whip organization. That assistant you have down at 1600 Pennsylvania Avenue is terrific.

Mr. LOTT. Thank you very much. He takes instructions very well, too.

Mr. BEILENSON. One further question with respect to oversight which obviously is a major subject in and of itself which you all spent a lot of time on. I had the honor of sitting on your subcommittee. There is a lot to be said about it, but just one quick question: I do sort of like the proposal you have, but I am not clear as to whether or not it would limit the kind of oversight that a particular committee could undertake during the remainder of that session.

Whether or not it was on their agreed-to agenda through this committee process, meeting with the——

Mr. LOTT. I wouldn't think this would limit it.

Mr. BEILENSON. It would establish an agenda for oversight which would be or should be followed?

Mr. LOTT. Yes.

Mr. BEILENSON. What would happen if the established agenda was in fact not followed?

Mr. LOTT. There is no punitive enforcement provisions in there now. I would like for us to see if it will work, to see if the committees would make it work.

Mr. BEILENSON. Do you think in a section such as this where, in fact, the chance for new legislation is not awfully great, and we aren't working on establishing a lot of new programs, this would be exactly the kind of situation which we ought to be doing?

Mr. LOTT. If you check most of the committees, there are very few committees doing anything in oversight.

Mr. BEILENSON. Back home in the State legislature it was the Appropriations Committee, or the committees back there which had the functions of the Appropriations Committee here, that did most of the oversight. There was automatic program review as the proposed budget was reviewed.

I can only assume that knowing how well they do it, our 13 appropriations subcommittees do an awful lot of that. Maybe it is something which automatically falls within their province rather than that of the authorizing committees, which have set out to write new stuff perhaps more frequently than they should have.

I don't know if Appropriations does a good enough job or not. I would guess they must involve themselves pretty heavily. They do each year when the proposed new budget comes out.

Mr. Lott. I know they do a lot of it. I think it should be done by the authorizing committees.

Mr. Beilenson. Another thing you didn't propose, which might make the whole oversight process easier is a 2-year cycle of authorization bills whereby the committees did not have to authorize all of the programs within their domain each year, as they often have to do now.

Mr. Lott. Of course, one of the things that would be considered in all of this, I guess, which is sort of an encouragement to do work or punishment if you don't, would be talking about the staffing ceilings.

Those committees that really have aggressive oversight investigation activities would maybe be justified a little more in the staff ceiling. If they don't, if they are not doing their job in that area, we might see fit to cut back on their staff ceiling level.

There are a lot of things that could be done. Again, I know there are some questions about what to do on oversight. I think if we could start with what we have here, we might have to add some parts to it, obviously.

Mr. Beilenson. This proposal of yours is obviously better than the one under which we are working, or not working actually.

Mr. Lott. The Rules Committee as such has not reported some changes of this nature or major changes in the rules in a long time. I think it would be really worthwhile for us, with our augmented funding level, to make some suggested changes like this. I think it would be well-received by our colleagues.

Mr. Moakley. Of course, you are well aware that the committee must respond to whatever the current legislative priorities may be. Besides that, we never had subcommittees to handle original jurisdiction matters. But now that we do, we can look at these and similar proposals. The chairman feels strongly that we do have to look at the House as an institution, along with its procedures.

Mr. Lott. We kept trying it with the select committees. It is obvious that will not work.

Mr. Beilenson. Thank you, sir.

Thank you, Mr. Chairman.

Mr. Moakley. Congressman Frost?

Mr. Frost. I just had one question, Trent. On page 394, line 8, I want to make sure I understand exactly what you are saying.

Where you say,

> I appreciate that there is some precedent for having greater majority representation on the Rules, Appropriations and Ways and Means Committee; but there is no justification whatsoever in our precedents for the bloated majorities which have been retained this year on Rules and Ways and Means Committees.

It was my recollection when this was discussed that someone made a point—and I thought it was our chairman—that the last time the Republicans controlled the House of Representatives that they, in fact, had a 2-to-1 plus 1 majority on the Rules Committee.

Are you saying that is not correct?

Mr. Lott. I don't think they had 2-to-1 plus 1. It was 2-to-1.

Mr. Frost. Not 2-to-1 plus 1?

Mr. Lott. That is right. We had it on this committee until three Congresses ago, we added that one. The one is the difference; 2-to-1 plus 1.

Mr. **Moakley**. In those days the Republicans held the House by less than six seats, too.

Mr. **Lott**. On Ways and Means I checked the precedents back to the beginning of this century, and I think there was only one time when the Republicans had a comparable margin on Ways and Means that we have this year.

Mr. **Frost**. Specifically as to Rules, since you serve on Rules with us, in the event—which we do not anticipate—that the Republicans gain control of the House in the next Congress, do I understand that you will not then press for 2-to-1 plus 1?

Mr. **Lott**. I will not. I would press for 2-to-1, but eliminate the 1.

Mr. **Moakley**. As majority leader, he would probably be busy with other things.

Mr. **Frost**. Thank you.

Mr. **Beilenson**. Mr. Chairman?

With respect to the oversight agenda where you allow 60 days for each committee to formally adopt, and so on, let me just suggest that, I don't think you have to wait that long.

Mr. **Lott**. Do you think 30 days would be enough?

Mr. **Beilenson**. Sure. The committees have had months when we are out of session, and the chairmen ought to know which areas they should be reviewing.

Mr. **Lott**. I thought about that. As you know, in the first 30 days of a session very little happens.

Mr. **Beilenson**. You could use some of those days for this authorization.

Mr. **Lott**. I actually thought about that but didn't want to feel like we were trying to press them.

Mr. **Beilenson**. Each committee ought to know where it should be spending more time in terms of oversight.

Mr. **Lott**. Sure would give them something to do at the beginning before we got the process rolling on authorizations and the budget.

Mr. **Moakley**. Trent, on behalf of the committee, thank you very much for an excellent presentation. As I said, there are few who would take issue with many of your points.

Our next witness will be Congressman Toby Moffett.

STATEMENT OF HON. ANTHONY TOBY MOFFETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. **Moffett**. Mr. Chairman, I want to applaud the Rules Committee for its attention to this matter. The gentleman from Mississippi—Trent Lott, the author of House Resolution 100—is right. He and I have had extensive conversations about this issue. While I have not specifically endorsed his bill in toto, I think his recommendations with regard to limiting the number of subcommittees, limiting staff, and oversight are excellent ones.

Mr. Chairman, members of the committee, I think that what I would like to do is focus on oversight. I'd like to talk about it first as a matter of philosophy, and second as a matter of scheduling.

My daughter's seventh grade textbook still, in what is an excellent school system, teaches the students that a good Congress is one that passes a lot of laws. This is true throughout the country in terms of the yardstick that is still being used by textbooks and by many teachers to judge the effectiveness of our institution.

It is an outdated yardstick. When I first ran for Congress in 1974, I said we should spend more time making old laws work than making new laws.

I have had the honor and privilege of serving with Mr. Moss, when he chaired the Commerce Oversight and Investigative Subcommittee here, and with Mr. Rosenthal, before I became chairman of a Government operations subcommittee. Chair the Subcommittee on Environment, Energy and Natural Resources, which has the luxury, I must say, of not having to dot the i's and cross the t's on legislation.

I suppose 10 or 15 years ago, if one were voted in as chairman of such a subcommittee, it would have produced condolences from colleagues who might have said, "Isn't it too bad you couldn't be chairman of a legislative subcommittee."

Nowadays I find many of my colleagues, counterparts, who are chairmen of legislative subcommittees saying, "Gee, it must be wonderful to be able to step back and look at issues without having to confront the next authorization bill that is coming along."

I think it is clear that separate oversight entities, subcommittees and committees, do work and can work. I think the Moss example is one.

There are many examples in the current Congress of how separate oversight entities are working. They are working because of bipartisan interest in the area. They are working because those subcommittees do have the opportunity to step back a bit.

I would also like to point out that many of the recommendations that are being made would engender the oversight philosophy by dealing with scheduling. To see this, historically I went back a little bit to the Hanley-Giaimo bill of 1974.

Of course, the Ned Pattison recommendation was for a legislative moratorium for a certain period of time. I think our former colleague from New York suggested the latter part of the year, October or something. It was discussed at the time with the leadership of both parties of the House, if I am not mistaken.

Nothing really came of it that I am aware of, but I do think that when you look at scheduling and you look at things like the recommendations of November 22, 1977, from the Comptroller General, they talk about imposing oversight requirements on committees when those committees are reporting major authorizing legislation, that is, writing into authorization bills oversight benchmarks, reports by the program's managers, and the like.

I think to a certain extent a rigid formula for oversight as proposed by that November 1977 report might be a bit unrealistic and perhaps even somewhat ineffective in this regard.

The dynamics that we see within the body suggest that the perogative of a chairman; the impact from current events; the impact from constituent mail or special interest pressure in the best sense—in terms of pointing out how things are wrong with laws—those are still very, very important stimuli of oversight.

I find as just one of several chairmen of oversight subcommittees that they do have a major impact on how we operate.

If I might, I'd like to talk about our subcommittee for a moment, not to boast about it, but to try to give the subcommittee an example of how one oversight subcommittee works.

It is so tempting to set loose an investigative staff when you have jurisdiction over the Department of Energy, the Environmental Protection Agency, the Nuclear Regulatory Commission, the Army Corps of Engineers, the Department of the Interior—this is the kind of jurisdiction that our subcommittee has.

It is so tempting to do a hearing a day. You pick up that newspaper and find things that interest you—on a bipartisan basis—every day of the week. We try to step back and resist that temptation and do four or five areas a year and try to do them properly.

We have had the good fortune, if I might put it that way, to produce reports and recommendations that have been, in most cases, unanimous or near unanimous from the subcommittee. We might have a dissenting vote or two, but generally speaking, we come out of the subcommittee quite united and out of the full committee quite united.

I think we have demonstrated—as did the Moss subcommittee—and several others have—that you can have oversight without having legislation. You can make changes in administrative agencies. You can make changes in behavior downtown if you are given the time and the breathing space to do your oversight and to do it properly.

Of course, there are examples of where you need to have your legislative connection, and we have had those experiences as well. I do think it is clear that you can have oversight and change behavior and put pressure on the agencies to shape regulations and shape their programs and make changes to improve the effectiveness of laws on the books without actually having to amend current statutes.

All of this leads me to the big questions that I ask. No. 1, when are we going to be given the time to do this oversight, that is, the time that we really need and require to do this oversight, even those subcommittees that currently only have an oversight and investigative agenda, and requirement?

We are still being interrupted by motions to approve yesterday's journal and go into the Committee of the Whole and countless other votes, many of which are meaningless or near meaningless.

I don't have to tell the committee about the waste of time and dollars involved when an entire subcommittee gets up and leaves the hearing room for 15 minutes to a half an hour—not only the taxpayer's money, but the money of corporations and other groups that are interested in that legislation—while their staff members, Representatives in Washington sit in the hearing rooms and wait, the wasted time of Cabinet members and other witnesses. I have heard that the Clerk of the House estimates a $25,000 cost for each vote.

Right now the point I would make is that, first of all, with regard to time, even the investigative oversight committees don't have anywhere near the time that they require to perform effective oversight.

No. 2, we need to create a situation where the other committee members and subcommittee members who are not on purely investigative subcommittees have an opportunity to do more oversight. This leads me to again make the plea that we create something like a legislation moratorium or an oversight season or an investigative season in the Congress.

I do not know exactly how to do it. I think the Rules Committee is much more capable of figuring out what the obstacles are, of figuring out what changes would have to be made in the authorizing schedule, in the appropriation schedule, and, of course, more recently, in the entire budget process and the budget cycle.

I asked Richard Sachs of the Congressional Research Service, the CRS, to do a memo for me on this issue. He has concluded that we haven't even begun to measure the impact of the budget process on what might be called the slack time that could be used for investigative and oversight work. I quote from his recent memo:

> This memorandum has shown where slack time exists according to one set of data collected in the 94th Congress. Since then, other elements, most notably the congressional budget process, have further infringed on what little legislative slack time existed at the time of the Obey commission's report and an analysis of the requested data will shed additional light on this subject.

I think we really need to take a hard look at the budget process, particularly with the reconciliation process factored in with trying to determine where we are and how oversight relates to that.

It would be nice to think that those conferees, those of us who will be involved in the conference on the budget, are dealing with information that is derived from a scholarly analysis of deliberative processes with regard to those programs.

But I don't think even Mr. Reagan would make the assertion that this is the case. I think, in my own view, the best that can be said about the process—and let me say this without discussing the administration's motivation in terms of their cuts—is that the Congress has failed to create a sober, scholarly process through which we analyze what works and what does not.

What we are seeing now, right or wrong, is tremendous frustration which is reflected in the approach of taking out the hatchet and just swinging away. One could say, I think—at least the case could be made—that if we had 10 years ago developed a better mechanism for finding out what works and what does not work, that we might not be in such a predicament where we are going forward with such an imperfect and, in some cases, brutal mechanism.

So, I would make the plea that we need some space and time, that we need an oversight season, an oversight session. If we cannot do that, if it is just too much to overcome, to change the schedules and the rules and whatever we have to do, then at least let us have a demonstration project, as I think Mr. Pattison was suggesting, that might take place after the election in an election year; the first month or two of a session when we are not too busy; or, following an adjournment in a nonelection year.

Mr. Chairman, I think this is a coalition on which you can get everyone from Ralph Nader to the National Association of Manufacturers and Common Cause to the Chamber of Commerce, a coalition that would applaud the Congress stepping back and looking at the big picture.

It certainly would not do the approval rating of the Congress any harm, either.

I have more or less, Mr. Chairman, tried to give you just the perspective of one person involved most of the time here in oversight. I guess it is really a crying out for the committee to do something on this matter.

Mr. **Moakley**. Well, Toby, as chairman of an oversight subcommittee with as broad a jurisdiction as you have, I could see you taking every other year for routine oversight and still not being able to complete your task.

Mr. **Moffett**. Exactly.

Mr. **Moakley**. Maybe if we devoted the first 2 or 3 months of a session to oversight, we could avoid all those interruptions like quorum calls and approving the Journal, which seem to disrupt committee work as the session progresses.

When we think about allowing time just for oversight, we have to decide what time, how much time, how it will affect the budget process, how it will affect this, how it will affect that.

Maybe we should forget those problems and just decide how we can free ourselves to conduct meaningful oversight. It is probably as important as any part of our legislative function, as you well know.

Mr. **Moffett**. Mr. Chairman, if I might add, I find widespread, if not unhappiness, let's say at least some discomfort on the part of almost all Members with whom I talk. I am sure you do, too.

When we come to a decision on the budget resolution or any other large or complex matter, widespread discomfort over the unknown. We are never going to conquer that entirely, but it would be hard to make the case that we have done our best to investigate, again what works and what does not.

I might say that I think that an oversight session could be dramatized and spotlighted to the extent that the leadership of both parties, and hopefully both Houses, could make a major announcement that the session would take place and could ask the cooperation of the media because one would be terribly naive to suggest that the Congress can do good oversight without ample media coverage.

So much of it is changing of behavior downtown, using pressure, educating the public, but I think an oversight session, Mr. Chairman, could be spotlighted. It would tend to answer that question, I think, to the satisfaction of most.

The question that is often raised when one brings up a proposal for an oversight season; that is, would the Members go home or would they stay in Washington. Because any analysis, as I understand it, of committee activity indicates that committee activity generally tends to reflect floor activity. When you don't have floor activity, you don't have nearly as much committee activity.

In many ways it should be just the opposite. I think by putting the spotlight, by having the Speaker, the distinguished minority leader, the leaders in the Senate say we are doing oversight this month or for these 2 months and to use their good offices to highlight the oversight activities and the findings; and if a member wants to go home and spend his or her time at every picnic, clambake, barbeque and not really try to find out what is working and what is not working, then I think they do that at their own peril.

It is not to say either that we could not go home and investigate things. We learn a great deal when we visit a factory about what works and what does not. I would picture my own view of an oversight session or an investigative season would be one in which we would have the time to go to factories or day-care centers or anyone who has anything to do with the Federal Government back home and ask them what they think their problems are and how we could begin to treat them.

Again, this is almost on a nonpartisan consensus.

Mr. MOAKLEY. Toby, are you aware of any State whose legislature has oversight sessions?

Mr. MOFFETT. There are States, Mr. Chairman, as I understand it——

Mr. MOAKLEY. That are better at oversight than we are?

Mr. MOFFETT. I think so. I think the gentleman from California——

Mr. BEILENSON. If the gentleman would yield, I was going to tell you about our past experience in California.

Until relatively recently we were able to end our regular sessions around June or July, so that afterward we had time for interim legislative sessions when many of the committees met, too often in places like Palm Springs or San Francisco.

In many cases the purpose of these interim meetings was to review legislation, and this turned out to be extremely useful. When we came back in session in January of the next year we ended up proposing new legislation that developed from those interim hearings, either promoting entirely new kinds of programs or amending programs which already were in existence. We spent a decent amount of time between regular legislative sessions in these interim hearings, and they were terribly useful.

Now, in California the legislature has come to the same impasse we have here, where we are in session for virtually the entire year. They just don't have those interim hearings anymore. A lot has been lost because of it.

I agree entirely with the gentleman that it would be very good to in some way set aside a specific time for this sort of thing. Because we are in session so long each year, it might be possible to do it toward the end of the year.

Coming back to my earlier suggestion in talking with Mr. Lott, perhaps it could be done during the first 2 or 3 months. We were around for 2 or 3 months this year before many of us had much to do. We had a few things on the floor, but there were only 12 to 15 votes the first couple of months. Most of us were here. Most of us didn't use our time very well at all.

It seems to me that most standing committees, most standing full committees, and also subcommittees know or ought to know in advance very easily where they should be spending more time looking at existing programs or whatever.

There is no reason in the world when we first come back in January, February, and March, for example, that each of these committees can't embark right then on reviewing some old stuff or existing programs with an eye toward having to reauthorize them later on. Then, if they do reauthorize them, it could be with certain specified changes. I think that might be the best time to do it.

Mr. **Moffett**. If I might respond to the gentleman from California, I think, despite the fact that the institution hasn't really moved in any deliberate fashion on oversight, I think we have seen a change in attitude.

The public is rejecting that old yardstick of a good Congress is one that makes a lot of laws. Second, I think more Members are understanding that oversight is good politics. It may be better politics than spending that time shaking hands somewhere, but not working on issues.

I am not against shaking hands, you understand, or attending barbeques or picnics. Heaven forbid. Let's face it. We are having more serious-minded Members come here all the time. I don't think that is a reflection on people who were here in the 1930's, 1940's or 1950's, but the fact is it is a reflection of what the public is demanding.

We have to work harder and get some institutional response, it seems to me, on this matter.

Mr. **Moakley**. Tony?

Mr. **Beilenson**. No questions.

Mr. **Moakley**. Congressman Lott?

Mr. **Lott**. Let me apologize first for missing the last part of your testimony. There was a call I had to take.

I agree that your particular committee, and your particular subcommittee, has done one of the best jobs, although I haven't always agreed with what you have been doing or how you approached it. You have probably been the best one in the House in having oversight hearings and investigative type activities. I wish we had a lot more of that.

So, I commend you for what you have done. You have done it even though I disagreed very much with former Congressman Moss. You have to admit he did the job better than anybody else around here. In his own way, but still it was done.

Maybe I missed this, but did you look over the suggestions I had here? Do you have any other specific suggestions? How do we get into more structured oversight agendas and——

Mr. **Moffett**. I apologize to the gentleman because I am not certain exactly when he had to leave, but I did mention that, first of all, we have a new ball game in a sense. We have to figure out where we are with regard to the budget procedure as it is now manifesting itself and with regard to reconciliation. I think we need an analysis of that right now.

I spoke with Mr. Panetta. He said ideally when we hand the numbers to the committees and say find these savings, there should be some opportunity for again a sober, scholarly analysis of what works and what does not work. We are not seeing that.

I have the greatest confidence in the ability of the people in this body to sit down and, having looked at a problem, come out with a reasonable consensus.

I just feel that on both sides of the aisle, on both sides of the political spectrum, we so often respond on the basis of our perception of history or our reputations or our stereotypes about given groups or what have you.

I guess I feel strongly about this largely because of my experience on my own subcommittee, that we have had a bipartisan spirit and we have moved forward on emergency planning around nuclear plants.

I changed my position to some extent. Other Members changed theirs. We looked very closely at that and the need for that and the failures or the shortcomings of the NRC process, on the miles per gallon standards for automobiles that resulted in that sticker on the car.

We looked at loopholes in the testing procedures. We again moved to close those without the aid of any legislation at all, just through pressure on EPA in the last administration.

So, I have great confidence that we can do it, but we need the time. I think perhaps the gentleman wasn't here when I said we really need the time carved out. If the Rules Committee can't figure out a more or less overall plan for an investigative season, let's at least try a demonstration project in the first part or the last part of the year, have the leadership, both majority and minority, in both Houses make a grand pronouncement and help set the schedule and let's try it.

I do have one fear, one caveat. This is probably a reflection of my own style and personality to some extent, too, I suppose. I do not like the idea of oversight conducted through academic seminars.

I remember when I first became chairman, one of the Members on the minority side—not on my subcommittee, but on the full Government Operations Committee—sent me a long letter making a recommendation that we look at every part of every agency under our jurisdiction and report back to the full committee.

I don't think that is really a sensible way of approaching it. There are some things about the Department of Interior right now that Members—perhaps more on my side of the aisle, admittedly, but not exclusively so—are going to wait to look at because of the initiatives by the leadership of the Department of the Interior, whereas the previous leadership of the Department of the Interior, we didnt feel that particular need.

We happen to have, again, a bipartisan concern there which I suppose reflects long years of Republican concern about the environment, but the fact is if we were bogged down in a highly systematic analysis of every single bureau and division of the Interior Department and we were unable to break out of that to look at lease sale 53 or the elimination of the Youth Conservation Corps, I think it would be highly unproductive.

So, I hope that the gentleman—and again, I applaud the gentleman for his suggestions on this—I hope he is not suggesting oversight as an academic exercise. I think it has to really be tied into policy in a very direct way.

Mr. Lott. Not necessarily at all, but maybe there would be instances where committees would want to go through some sort of academic oversight at first. But still, that is not my real intent.

You know, we should not be governed by just the politics of these things or what the polling reflects, but the polling this year in this country has indicated recently that Congress has had a substantial improvement in our position of favorable ratings by the American people.

If we could, I think, get together on a bipartisan basis and say look, we have agreed on an oversight agenda and we are telling you now we are going to have a set period in which we are going to do that, I think there would be a very, very positive impact on the American people.

Not doing it just for that reason, but I think it would help restore a little faith in what we are doing.

Mr. MOFFETT. If the gentleman would allow me, I guess the gentleman was out of the room when I said you have everyone from Ralph Nader to the National Association of Manufacturers to the National Rifle Association, Common Cause, League of Women Voters, Chamber of Commerce, it doesn't matter. They could all be for us. They are all anxious to see the laws work better. They are all wasting people away over in the hearing rooms every time there is a motion to approve yesterday's journal.

I think there is widespread interest in it. We have so far been unable to respond in any kind of thorough way.

Mr. LOTT. I guess it is because we haven't been able to decide exactly how to do it. Maybe some sort of trial period would be worth trying. Let me run down the list.

Do you agree with the idea we should try to further limit subcommittees?

Mr. MOFFETT. Yes.

Mr. LOTT. Do you agree it would be a good idea to limit subcommittee assignments Members serve on?

Mr. MOFFETT. Yes.

Mr. LOTT. What do you think about this joint referral question, versus split, sequential?

Mr. MOFFETT. I can see some merit in that. I am not sure about it.

Mr. LOTT. What about the one-third quorums and proxy voting? Do you have any feeling about that?

Mr. MOFFETT. Yes. I cannot agree with the gentleman on that.

Mr. LOTT. On either one?

Mr. MOFFETT. I was glad I saw the commitments they were getting out of you for the next session. I hope they are not relevant.

I was glad to see my colleagues on this side of the aisle gaining all those assurances.

No. Not at this point, I don't think we are ready. If it were a perfect world, your proxy suggestion would be very good.

Mr. LOTT. The one-third quorum. This is a newly created phenomenon right here. You still think——

Mr. MOFFETT. No. I am not saying I would solidly defend it. I haven't looked at it that much. I have been looking at the Rules Committee's renewed activity in this area mainly in terms of what we have been discussing, which is oversight.

Mr. LOTT. You did indicate, too, that you thought the staff ceiling would be a process that would be worth pursuing?

Mr. MOFFETT. I think we have to concede—and it is easy for those of us on oversight, I suppose, to concede it—the standing legislative committees and subcommittees are all too much in many instances involved in producing products, sometimes useful, sometimes not.

All of our reputations get caught up in the production of those products and whether we win or lose and so forth. It is not necessarily a reflection of good policy. I think that change, though, should be part and parcel of a change in the authorizing cycle and the appropriations cycle, if we might consider it.

Mr. **Lott**. Thank you, Mr. Chairman.

Mr. **Moakley**. Toby, not only is it a problem to find time for oversight, scheduling a legislator's time is an even greater problem. You are one fellow that I always felt had a knack of apportioning enough time for certain areas.

I was just wondering, maybe we should have some kind of time study expert give us some help on how individual Members can apportion their time to get the most out of their day.

I am sure that you have the same problem we all do. We get back to the office and seem to just shuffle papers around, answer telephone calls, just do things that take us away from our important legislative duties.

Mr. **Moffett**. I appreciate your compliment, but I think I feel as frustrated as anyone else around here in terms of productivity.

I would just like to feel a lot more productive than I do, and I think most of us, again on both sides of the aisle, would as well.

My understanding is, Mr. Chairman, there have been some analogies. I do not know how extensive they have been. I think it was the Obey commission that came out with some figures on the percentage of our time taken by roll calls and so forth and so on.

I think that is good. I just hope we do not study it to death, though. I really hope that there is a move by this committee to come out with some sort of proposal here in the fairly near future.

Mr. **Moakley**. Congressman Frost?

Mr. **Frost**. No questions.

Mr. **Moakley**. Toby, thank you very much for coming.

Mr. **Moffett**. Thank you, Mr. Chairman.

Mr. **Moakley**. Just to show you how valuable our time is, we have one of the freshmen here looking at how the Rules Committee spends their time.

Mr. **Lott**. I thought maybe he would like to testify.

Mr. **Moakley**. The Congressman enjoyed a position of leadership in his own state.

Did you have an oversight committee in your State?

Mr. **Hoyer**. Joe, we adopted the year I left a bill which I sponsored, and it failed by one vote this past yer to be repealed, which was testimony to what I think all State legislatures are finding in that our provision has various different regulatory agencies identified which there were something like 27 or 28 cut up into 4 years.

Every year *x* number would be done, six or seven. Our Fiscal Services Department, which is a nonpartisan, unified services arm of the legislature, would review each agency, regulatory agency as to cost-benefit ratio, whether it was carrying out the law, various different criteria, and then come back and make recommendations.

They have had one success, and I think probably all you have read about that, the last censor board in America went by the boards 2 weeks ago as a result of this procedure.

However, the experience has been that while oversight is an excellent concept, it is very difficult to come to grips with when you meet with a recommendation of cutting out. Of course, the difference, Mr. Beilenson mentioned—one observation I had.

One difference I find with the Congress, of course, which I do not think most of us have in our legislatures, is the splitting of authorization and appropriation funds which are, for the most part, my experience has been in the State legislature, certainly in Maryland, a unified function.

Because they are unified functions, you really have more oversight responsibility within that particular committee. But it is a very difficult process, there is no doubt about it.

I thought that Mr. Moffett's observation with respect to a season or time when oversight would be affected has been discussed by the Maryland Legislature many times, which is a 90-day constitutionally limited session, as to having a special session for oversight.

It has never come to pass, but it is certainly an idea which has been discussed. I am sure you have discussed it in the past as well.

Mr. **Moakley**. Thank you.

Mr. **Lott**. Mr. Chairman, I would like to ask permission to insert in our hearing record a series of special orders I have done on H. Res. 100, with comments from others.

Mr. **Moakley**. Without objection.

[The information follows:]

[From the Congressional Record, Mar. 4, 1981]

BLUEPRINT FOR A HOUSE THAT WORKS

The **Speaker** pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. **Lott**) is recognized for 10 minutes.

Mr. **Lott**. Mr. Speaker, to borrow from the title of a book written by our present Rules Committee chairman, this is a "House Out of Order." Ironically, that book was published back in 1965 when the real complaint of such liberals was that the House was too orderly—that it was controlled by a few conservative committee chairmen who managed to keep so-called progressive legislation bottled up in their committees. To remedy this situation, these liberal congressional reformers advocated stripping committee chairmen of their powers under the rubric of "opening up and democratizing the system."

The result of all this was the socalled congressional reform revolution of the last decade which truly did emasculate the powers of committee chairmen, opened us nearly to the point of breaking our binding, and has almost democratized us to death. While many of the reforms of the last decade have been salutary in terms of increasing public exposure and access to the legislative process, I think even many of the liberal reformers will agree that the reform revolution was carried to an extreme and as a consequence we are truly today a "House out of order." Not only is public confidence in the Congress at an alltime low, but there is a growing consensus among House Members themselves that this House is becoming increasingly unmanageable and unworkable.

Mr. Speaker, this legislative crisis of governance can be traced directly to the very foundation of our legislative process—the committee system. With the decentralization of House leadership authority, the fragmention of committee jurisdictions, the proliferation of subcommittees, and the explosion of committee staff, our committee system is a crumbling foundation that threatens to bring down the entire House.

MAJORITY LEADERSHIP RESPONSE

Unfortunately, the Democratic majority that has controlled this House for the last 25 years has failed to recognize or act on this critical problem, preferring instead to let tiny political fiefdoms with their attendant staff proliferate and duplicate, all at the expense of rational policymaking, quality legislating, and effective oversight.

The Democratic leadership points with alarm to the fact that the House is taking more time to consider fewer bills due to an increase in floor amendments and votes. But, instead of conceding that all this may be due to flawed legislation being reported from unrepresentative subcommittees and committees, the majority leadership contents itself with trying to treat the symptoms instead of the causes—of restricting floor amendments and votes instead of insuring a more representative, accountable and conscientious committee system.

Even more alarming is the majority leadership's insistence on perpetuating inequitable party representation on House committees and subcommittees, in complete disregard of the wishes of the electorate and the democratic tenet of one man, one vote. Is it any wonder, with lopsided majority representation on major committees, that committees often produce legislation that does not meet with the approval of the House and requires major rewriting on the House floor to secure passage?

Just as power tends to corrupt, so too does dispersed power tend to disrupt. And in the House of Representatives, the dispersion of power to proliferating, duplicative, and unrepresentative subunits has completely disrupted and distorted the legislative process to the point of near breakdown and stalemate.

TIME FOR A CHANGE

Mr. Speaker, the time has come to reverse this trend, to put our House back in order, firm up that foundation that is our committee system, and draft a blueprint for a House that works. To that end I am today introducing the Committee Improvement Amendments of 1981, a package of seven House rules changes aimed at strengthening our committee system and making the legislative process more manageable, efficient, and representative.

In summary, my amendments to the House rules would do the following: First, require equitable party ratios on House committees; second, limit all committees, except Appropriations, to no more than six subcommittees, and all Members to no more than four subcommittees assignments; third, eliminate the joint referral of bills to more than one committee; fourth, require formal committee adoption of oversight agendas at the beginning of each Congress and House approval of a consolidated oversight agenda resolution; fifth, require a majority quorum on all committees and subcommittees; sixth, ban proxy voting in committees; and seventh, require House adoption of an overall ceiling on committee staff at the beginning of each year.

Mr. Speaker, at this point I would like to discuss each of these proposals in greater detail, after which I will include the full text of my resolution.

EQUITABLE COMMITTEE RATIOS

Clause 6 of rule X would be amended to require that the membership of all standing, select, and ad hoc committees, except Standards of Official Conduct, and all subcommittees and subunits thereof, and of all conference committees, reflect, to the closest degree possible, the party ratio in the House as a whole.

While House committees should ideally be a microcosm of the House both from the standpoint of democratic representation and to insure the development of legislation that will be acceptable to a House majority, recent years have witnessed a growing disparity between the partisan composition of the House and its committees and subcommittees. In the 96th Congress, for instance, the minority party was undercounted by 10 seats on the 22 standing committees and by 52 seats on their 152 subcommittees.

As my colleagues are well aware, this inequity was only compounded in this Congress when Republicans made substantial gains as a result of the last election and now hold 44 percent of House seats. Despite this fact, Democrats have retained their supermajorities on the major committees; Nearly 69 percent of Rules, nearly 66 percent on Ways and Means, and 60 percent each on Budget and Appropriations. The more disperate the party ratios between the House and its committees, the more disperate becomes the legislative situation when bills are reported to the House from these unrepresentative committees. If we are to begin to have more rational and representative policymaking, then our committees should more accurately reflect the party makeup of the House as a whole.

SUBCOMMITTEE LIMITS

Clause 6(c) of rule X would be amended to limit all House committees, except Appropriations, to no more than six subcommittees, and to limit all Members to no more than four subcommittees assignments.

One of the most alarming trends in the House in recent years has been the proliferation of subcommittees. In 1951 there were 19 standing committees in the House with a total of 69 subcommittees; by 1980 we had 22 standing committees with a total of 152 subcommittees and other subunits—a 120-percent increase. The fact that the same number of Members has been spread more than twice as thinly over the subcommittee system has taken a dreadful toll on the legislative process.

The Select Committee on Committees in the 96th Congress concluded that the proliferation of subcommittees and Members assignments have eroded specialization, diminished participation and representativeness, and increased jurisdictional overlap, duplication of effort, policy process fragmentation, and scheduling conflicts.

It is little wonder that 77 percent of the House Members surveyed by the select committee agreed that the committee system is in disarray, 80 percent favor a reduction in subcommittees, and 82 percent favor a limit on subcommittee assignments.

Although a subcommittee and Member assignment limitation proposal was reported by the select committee on October 10, 1979, and was promptly endorsed by the House Republican conference and policy committee, it died in a Democratic Caucus study committee. At the beginning of this Congress the caucus did impose an eight-subcommittee limit on each committee—still a far cry from the reductions that are needed.

My proposed limit would eliminate 26 of the 152 subcommittees which existed in the 96th Congress, and the Member assignment limit would reduce the workload of 188 House Members by 1 or more subcommittee seats.

MULTIPLE REFERRALS

Clause 5(c) of rule X would be amended to eliminate the practice of joint referral of bills to two or more committees simultaneously, but would retain split and sequential referrals and expand sequential referrals to matters reported as well as introduced, subject to appropriate time limits.

Since 1975, the Speaker has been authorized to refer bills to two or more committees simultaneously, in a split manner, sequentially, or to ad hoc committees comprised of members of two or more committees sharing jurisdiction over the same bill. As the Select Committee on Committees concluded in the 96th Congress, joint referrals lead to a substantial duplication of effort, a slowdown in the legislative process, an increase in staff power, jurisdictional bickering, and a lack of accountability.

The select committee found further that multiple referred bills consume four times as much hearing and meeting time as bills referred singly, and yet have less chance of being reported or passed by the House. Multiple referred bills also result in more confusion and amendments when they are considered by the House.

While the elimination of joint referrals might result in more squawking from committees skipped over in the initial referral, if their jurisdictional claims are substantial they may still get a shot at the bill in a sequential referral of limited duration. The elimination of joint referrals may also finally bring the pressure needed to force a comprehensive realinement of committee jurisdictions along more rational and functional lines.

OVERSIGHT

Clause 2(c) of rule X would be amended to require the formal development and adoption of oversight agendas by each committee within 60 days of the beginning of each Congress for submission to the Committee on Government Operations. After hearings and consultation with the majority and minority leaders, the committee would incorporate these agendas into a resolution for consideration by the House within 90 days after Congress convenes. The resolution would be subject to amendments only by the Committee on Government Operations and the majority and minority leaders.

The present House rule requires submission of oversight agendas to the Committee on Government Operations and their publication within 60 days of the convening of Congress. But, for the most part, time constraints have made this a staff operation with little or no formal committee consideration or action. The oversight agendas thus bear little relation to the subsequent oversight plans or activities of our committees.

The new rule is an attempt to make the oversight agendas more meaningful by requiring formal committee adoption within a more realistic time frame, and House consideration of a consolidated oversight resolution, open to amendment only by the majority and minority leaders and the Committee on Government Operations.

MAJORITY QUORUM

Clause 2(h) of rule XI would be amended to require a majority quorum on committees and subcommittees for the purpose of conducting any business, including the markup of legislation.

Under present House rules, committees may set their quorum requirement at as few as one-third of their membership for taking any action other than reporting a measure, closing a meeting, or issuing a subpena. This one-third quorum requirement, taken together with the practice of proxy voting, is a clear invitation to absenteeism at the most critical stage of the legislative process—subcommittee and committee markup of a bill. As a result, the most important decisions made by subcommittees and committees, the amendments adopted, enjoy the support of as few as one-sixth of the membership.

The one-third quorum rule can only contribute to slipshod and unrepresentative legislating both at the subcommittee and committee levels, and to a plethora of floor amendments when bills are exposed to the more critical light of the more representative House membership. The proposed rule would return committees to the majority quorum requirement for the transactions of business which existed prior to 1977.

PROXY VOTING BAN

Clause 2(f) of rule XI would be amended to prohibit proxy voting in House committees and subcommittees.

Under present House rules, proxy voting is prohibited in committees and subcommittees unless authorized in committee rules for specific measures. All but 4 of the 22 standing committees of the House presently permit proxy voting under their rules. As a task force of the Select Committee on Committees noted in the 96th Congress, in recommending a ban on proxy voting:

The sanction accorded proxy voting contributes to absenteeism and tolerates slipshod committee scheduling. The very procedure itself is objectionable—the practice of allowing a Congressman to transfer his right and obligation of voting to another Member seems ill-suited to the basic fundamentals of representative government.

COMMITTEE STAFF CEILING

Clause 5 of rule XI would be amended to provide for the adoption by the House of a resolution establishing an overall ceiling on the house committee staff each year, prior to the adoption of any committee primary expense resolution. In allocating committee personnel within this ceiling in primary expenses resolutions the Committee on House Administration would take into account the past and anticipated legislative veto and oversight activities of each committee. It would not be in order to consider any expense resolution until the ceiling resolution has been adopted, and each such expense resolution would have to be in conformity with the ceiling. Any supplemental expense resolutions which exceeded the limit could only be considered by a two-thirds vote of the House.

In recent years there has been an exponential growth in House committee staffs. Between 1973 and 1979, committee staffs have more than doubled from 918 committee personnel in 1973 at a cost of $14 million, to 1,939 committee personnel in 1979, at a cost of over $40 million. While much of this growth has been necessary to put the House on a more equal footing with the executive branch and permit it to develop its own independent sources of information, there are growing signs that this staff explosion has reached a point of diminishing returns.

While the House is currently limited by statute as to how many professional and clerical staff each committee may have—18 and 12, respectively—there is no comparable limit on so-called investigative staff which are provided for by primary and supplemental expense resolutions adopted by the House, and paid for out of the contingent fund of the House as funded through the appropriations bill for the legislative branch. Moreover, there is no requirement at present that these primary and supplemental expense resolutions specify the number of additional employees to be authorized or the amount to be allowed for their salaries. It is time for the House to get a handle and a ceiling on this runaway problem before the balance is tipped in the direction of Congress being dominated by its unelected committee staffs.

At this point in the Record, Mr. Speaker, I include the text of my resolution. [See p. 357.] I urge my colleagues to join with me as cosponsors, and the Rules Committee to take early action on these vital proposals.

[From the Congressional Record, Mar. 12, 1981]

BLUEPRINT FOR A HOUSE THAT WORKS: PART II

Mr. LOTT. Mr. Speaker, last Wednesday, March 4, I introduced House Resolution 100, the Committee Improvement Amendments of 1981, a package of seven House rules amendments aimed at making our committee system more efficient, manageable, and representative. I have since circulated a colleague letter soliciting cosponsors, and will reintroduce the measure on April 15. In the meantime I direct the attention of my colleagues to my special order in the March 4 Congressional Record, beginning at page H785, in which I give a detailed explanation of my resolution and insert its text. I urge my colleagues to cosponsor this resolution.

Mr. Speaker, the central thesis behind my effort is that the congressional reform movement of the last decade has so dispersed powers in the House that we are today nearly powerless. With tangled committee jurisdictions, proliferating subcommittees, exploding staffs, and miniquorum and proxy voting rules, we are on the verge of legislative paralysis. Our House just does not work anymore. What is needed is a "Blueprint for a House That Works," a plan that will strengthen our committee system and make it possible for Members once more to carry out their legislative responsibilities in a conscientious manner. My committee improvement amendments address this problem by reducing the number of subcommittees and Member assignments, requiring fair party representation on committees, eliminating proxy voting and restoring majority quorums, strengthening our oversight procedures, eliminating joint referral of bills, and adopting an overall ceiling on committee staff at the beginning of each year.

Mr. Speaker, in this regard I was pleased to read the February 23 Time magazine "American Renewal" project. In its section, "To Reform the System," Time notes, as I have, that, "in fact, some of the problems afflicting the system today derive from various reforms undertaken—with the best of intentions—during the past decade." The article goes on:

"These were primarily liberal reforms, designed to improve the way Presidents are elected and the way Congress deals with legislation. The chief target was 'the bosses,' the chief goal a more open political process. Only now that bossism has been largely overthrown can it be demonstrated that the party bosses performed a valuable function after all, that they were a corrupted form of a system known as representative democracy and that the new vogue for various forms of 'direct' democracy could itself become undemocratic."

In its section on Congress, entitled, "The Cave of the Winds," Time recounts how our committee system has gotten so out of hand that, "there were 210 separate legislative entities in the House last year; out of 334 Democratic Members of the House and Senate, all but about two dozen were chairmen of something." The article goes on to note that congressional staffs have grown from 6,650 in 1960, to 17,700 last year.

I was especially pleased to note that Time recommended three changes that are included in my committee improvement amendments. To quote from the article:

"The number of autonomous subcommittees should be sharply reduced, and so should the size of congressional staffs. The Speaker should be given the authority to designate one committee as primarily responsible for a specific bill."

Mr. Speaker, while I cannot agree with all the recommendations made in the Time article, particularly the one advocating taxpayer financing of congressional election campaigns, I think the article is an excellent overall assessment of the current state of Congress. At his point I include those portions of the Time article relating to Congress and commend them to my colleagues' attention. The article follows:

[From Time Magazine, Feb. 23, 1981]

AMERICAN RENEWAL PROJECT

If there is one political belief that Americans cherish as an article of faith, it is the belief that their system of constitutional Government is the best ever devised by the mind of man. Yet an increasing number of citizens seem to share a contradictory view—that the system is not working. The evidence takes diverse forms. There are widespread demands for several differing constitutional amendments. And after the usual blizzard of declarations that every ballot is crucial only 53 percent of the eligible voters went to the polls last November, the fifth voting decline in a row.

Opinion polls, the nation's favorite medium of public confession, document the erosion of Americans' faith in their system. Pollster Louis Harris has been asking over the years how many citizens believe in a series of statements like, "The people running the country don't really care what happens to you." The number who subscribe to this "index of alienation" has climbed steadily, from 29 percent in 1966 to 44 percent in 1972 to 58 percent today. The University of Michigan's Center for Political Studies asks opinions on similarly glum statements: "The Governments is pretty much run by a few big interests . . . Quite a few of the people running the Government don't seem to know what they're doing. . ." The alienated again rise sharply, from 19 percent in 1964 to almost 60 percent today.

Just as Oscar Wilde once remarked that the youth of America is its oldest tradition, much the same could be said of complaints about the failings of the U.S. political system. George Washington grumbled that "the stupor, or listlessness with which our public measures seem to be pervaded, is, to me, matter of deep regret." Through all the criticism, the mere fact that the system has survived more than two centuries of turbulent change is the strongest possible evidence of its solidity. While the American way of Government has repeatedly stood accused of inefficiency, the best defense is that is was not designed for efficiency but for accommodation and consensus. That, indeed, is the key to its survival.

To some extent, the faults of the system can be blamed on the men charged with operating it. And perhaps their biggest failure lately has been the inability to formulate a coherent set of national priorities. The result: enactment of muddled programs because there are no clear objectives. Democratic Congressman Richard Bolling of Missouri, who hopes to establish later this year a bipartisan blue-ribbon committee on reorganization of the Govenment, believes that a new national consensus has been needed ever since the basic objectives and priorities began to blur about 15 years ago. That was the time, at the height of Lyndon Johnson's Great Society flourishes, when the polls began showing that increase in public alienation. "Lyndon Johnson forgot to ask for a tax increase to pay for the Viet Nam War," Bolling says wryly, "and that was the breaking point. In the absence of a broad overall concept, people retreated to their own interests. Society became fractionalized, and the interest groups exacerbated that. No President and no Congress can reorganize the Government now without a great deal of support from concerned citizens. Big Business and Big Labor also have to come together."

But even though some of the nation's problems derive from the questionable competence of its elected leaders, and even though some derive from the general uncertainty about where the U.S. should be heading, the fundamental question remains: If a first-class leader managed to reach the White House, and if he had a clear and persuasive view of the course he wanted to set, could he provide an effective Government? Or would "the system" doom him, as it doomed more than one of his predecessors, to a single term ending in bitterness and frustration?

CONSTITUTIONAL CURES

The creators of the Constitution never claimed that the document they drafted in Philadelphia in 1787 was immune to change. Not only did Article V authorize amendments by Congress and the states, but it also promised that whenever two-thirds of the state legislatures wanted to summon a new convention, they could rewrite the whole Constitution. Thomas Jefferson thought some such revision was needed once in every generation. "Alterations may at any time be affected . . ." added Alexander Hamilton in the 85th and last of the commentaries and cajolings that make up The Federalist. "The will of the requisite number would at once bring the matter to a decisive issue."

Alterations have indeed been effected, from the Bill of Rights (adopted in 1791) to the 13th Amendment abolishing slavery (1865) to the 26th and most recent Amendment (1971) lowering the voting age to 18.* The possibility of a new convention, however, has never been fulfilled. There have been attempts made—scores of them. In the early years of this century, 26 states petitioned for a constitutional convention to outlaw polygamy. In the past few years, 30 of the necessary 34 states have petitioned for a convention to require balance budgets.

The founding fathers not only did not design a blueprint for the America of 1980 but had not the faintest idea what it would be like. Where the White House now stands, there were only a few empty meadows upstream from the barnyard where George Washington tried to breed new varieties of mules; Ronald Reagan's smog-filled Los Angeles was a tiny settlement of Spanish friars surrounded by thousands of miles of wilderness. The Principal danger envisioned by those squires and merchants who had rebelled against King George was that of monarchy, and their remedy for that danger was the theory of checks and balances. "Ambition must be made to counteract ambition," said James Madison. The theory is reasonably sound, but as circumstances have changed and become more complex, the doctrine of separate powers can be partly blamed for the present imbroglio, a presidency unable to get any program through Congress unmauled and a Congress unable to get its wishes carried out ay an entrenched bureaucracy.

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*There are fairly clear patterns. Of the twelve Amendments passed since 1870, six broadened the vote in various ways, three regulated technical aspects of the presidency, two began and then ended Prohibition and one permitted the progressive income tax.

Despite these shortcomings, however, radical surgery on the Constitution is not the answer. It is hard to imagine any major overhaul of the nation's fundamental charter that would not create more problems than it would solve. In fact, some of the problems afflicting the system today derive from various reforms undertaken—with the best of intentions—during the past decade. These were primarily liberal reforms, designed to improve the way Presidents are elected and the way Congress deals with legislation. The chief target was "the bosses," the chief goal a more open political process. Only now that bossism has been largely overthrown can it be demonstrated that the party bosses performed a valuable function after all, that they were a corrupted form of a system known as representitive democracy, and that the new vogue for various forms of "direct" democracy could itself become undemocratic.

The founding fathers emphasized that the U.S. was a republic, which simply meant that they would bow to no king, but they had no intention of establishing a democracy, which most of them regarded as synonymous with mob rule. Thus they decreed that the President should be elected not by direct popular vote but indirectly by an Electoral College, and that Senators should be chosen by state legislatures (a method that was changed by the 17th Amendment of 1913). They did so not only because they feared the vicissitudes of what conservatives liked to call "the tyranny of the majority," but also because they wisely saw the values of circumspection and consensus. If every public issue can be submitted to an instantaneous plebiscite—a utopian (or nightmarish) possibility that cable television has now made technically possible—then there is little time and little impetus for thoughtful debate, for the analysis of dangerous consequences, or for the conciliation of opposing minorities. All of these are necessary for the formulation of policies that truly serve the public interest. All of them can best be achieved by a process known as intermediation, in which various groups of citizens and various layers of Government have an opportunity to shape and influence the raw expression of public opinion. This was one of the major purposes that the political parties needs to be restored in the presidential elections, in the operations of Congress and throughtout the governmental process. The whole process depends on the building of coalitions; otherwise, the only rule of politics becomes the rule of every man for himself—the exact opposite of the purpose for which Jefferson said governments are instituted.

Though any alteration of the Constitution should be regarded with extreme caution, there is much else that needs to be done. Indeed, there is hardly a single element in the U.S. system that could not benefit by some serious scrutiny, some reevaluation, some alteration.

THE CAVE OF WINDS

Most efforts to rationalize or reform the workings of Government come to an end, of one sort or another, in the wilderness of Congress. It was here, and not in the presidency, that the authors of the Constitution established the basic powers of Government. When Andrew Jackson first stated the modern notion that he represented the people, ex-President John Quincy Adams, who had been elected to Congress, shouted back from the floor of the house: "No, we are the representatives of the people!" The Constitution gives congress not only the basic authority to levy taxes and make war but also the power to reorganize—or refuse to reorganize—both the Administration and itself.

Congress has repeatedly given away its powers to importunate Presidents, then tried to snatch them back. In the Gulf of Tonkin Resolution of 1964, it told Johnson he could take any action he chose in Southeast Asia; in the War Powers Act of 1973, it told Nixon that he could not use force anywhere without its approval. All congressional efforts to assert executive authority, however, run afoul of the fact that a bicameral legislature of 535 members has difficulty making up its collective mind, particularly in tricky questions of foreign policy. Individually, too, the legislators are often vulnerable to local pressures—an outcry from Greek constituents agitated about the Turks, or New England trawlermen worried about fishing boundaries off Canada.

As with the presidential election process, a series of liberal reforms has made the problem considerably worse. Twenty-five years ago when the seniority system was supreme, Congress was ruled by a coterie of committee chairmen, many of them Southern, most of them aged and conservative, all of them proudly determined to have their own way. For all its occasional abuses, this system gave Congress a certain coherence; the White House knew whom to deal with, and the legislative leaders could speak for the membership. Today the chairmen are named by the party caucus and have to answer to their committee members—and therfore have little authority over them. Another of the reforms, however, decreed that each committee should have at least four subcommittees with independent chairmen and independent staffs. Result: there were 210 separate legislative entities in the House last year; out of 334 Democratic members of the House and Senate, all but about two dozen were chairmen of something. A related problem: the congressional staffers, accountable to nobody outside their own committees, have nearly tripled, from 6,650 to 17,700, since 1960. Their powers have grown proportionately. Smart lobbyists know that it is often as important to cultivate these virtually unknown administrative assistants as the Senators and Congressmen for whom they work, for it is the assistants who formulate many of the measures placed before the harried legislature. (The total of bills passed by the last Congress: 736.)

All the myriad subcommittee chairmen nourish dreams of getting on television, for the reforms that have brought direct democracy to the presidential process have had no less effect on Congress. Every Congressman must root around in the cabbage patch to finance campaigns that can easily cost $1 million,[*] and members of the House have to run every two years—which means, in effect, campaigning continuously.

Having raised their own money and defined their own issues, the new legislators arrive in Washington with understandably little loyalty to a President or party leaders who contributed less to their victories than did the host of new political action committees unleashed by the campaign reforms. Indeed, the organization to which they pay the greatest heed may well be the lobby or pressure group back home that used its money and its mailing lists to provide the decisive votes—and may do so again within a year or so. "We've got a different kind of person in the House today," says Congressman David Obey of Wisconsin, chairman of the Democratic Study Group. "Members today won't tolerate discipline. Campaign funding is dispersed and decentralized. We're being eaten alive by the single-issue groups."

The consensus of congressional leaders is that neither the House nor the Senate has the stomach for undertaking any drastic revision of the recent reforms. Still, there is considerable agreement on some things that need changing:

Federal campaign funding should apply to congressional races. All the arguments against fat-cat financing of presidential candidates apply much more strongly to congressional candidates. They have a harder time raising money and they are far more vulnerable to pressure groups. Federal financing seems a workable solution. and here, as in the presidential campaign, a portion of the federal funds should be funneled through the party organizations.

The leadership needs reinforcement. House Speaker Tip O'Neill inherited some of the powers that once belonged to the committee chairmen, but throughout the Carter Administration he had a hard time mobilizing the support for any presidential program. Here, too, the key question is money. The congressional leadership should have a strong say about how the parties reward cooperative Congressmen with federal campaign funds.

Procedures should be streamlined. The number of autonomous subcommittees should be sharply reduced, and so should the size of congressional staffs. The Speaker should be given the authority to designate one committee as primarily responsible for a specific bill. Overlapping responsibilities (the classic example: 83 committees deal with energy bills) should be eliminated.

Congressmen should serve longer terms. The Constitution makers were right in believing that the House should be closely responsive to the voters, and that the simplest way of assuring this was to have frequent elections. But the expense and effort of running for re-election are now so considerable that a term of four years instead of two is more reasonable. This would also help with another problem: Congress should plan further ahead so there is greater continuity of policy.

It can be argued that such a change in congressional terms, which would require a constitutional amendment, should be accompanied by a limitation on the number of terms a Congressman may serve. (A one-term limit was informally imposed during the 19th century and nearly forced Abraham Lincoln from office.) The advantage of this would be the end of the notion that Congress itself is a profession or lifelong vocation. But it is probably still wiser to let the voters decide when their Representative should be retired.

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[*] The most expensive campaigns last year: in the Senate, Indiana's Birch Bayh spent $2.8 million losing to Dan Quayle ($2.1 million); in the House. California's Robert Dornan spent $2 million to win re-election against Carey Peck ($500,000).

ONE STEP TOO FAR

In most discussions of governmental reform, there is usually at least one voice urging that the U.S. should abandon the superannuated mystique of the separation of powers and adopt some form of the parliamentary system. That view has been vigorously presented by Carter Counsel Lloyd Cutler. In a speech delivered to the University of Texas Law School and published in Foreign Affairs, Cutler argued that the U.S. President "does not have the power to legislate and execute his program," and that only the parliamentary system enables a victorious party to "form a government."

Under the parliamentary system, a prime minister is chosen by the majority party in the legislature, which must then support the most important elements in his program. If the parliament balks at supporting the prime minister, a new government must be formed, either from within the parliament or by a new election. That system makes both a prime minister and his political party clearly responsible for all governmental policies, and it gives voters a fairly clear choice of whether to support the government or change it.

Almost every constitutional democracy established since World War II, including those launched under American auspices, has relied on this model more than on the U.S. system. But these nations have all found, in due course, that the parliamentary system also has its problems: it tends to create unstable, multiparty coalitions, and thus a relatively weak executive; and it offers no mechanism for correcting the malfunctioning of parliament itself. The French, after a chaotic swirl of 26 powerless parliamentary Cabinets in 13 years, junked the Fourth Republic in order to create the more American-style "presidential regime" proposed by Charles de Gaulle. It is a hybrid of this type that Cutler suggests. Specifically, he offers as an agenda:

(1) That the President and members of the House be elected to simultaneous four-year terms on an unsplitable ticket. This idea, which has been urged by Representative Jonathan Bingham of New York, would theoretically tie the legislators more closely to the winning President, but the benefits remain problematic.

(2) That the President draw 50 percent of his Cabinet from Congress, and that these appointees retain their congressional seats. Having officials in both branches of Government, now forbidden by Article I, Section 6 of the Constitution, would "tend to increase the intimacy between the Executive and the legislature and add to their sense of collective responsibility." Dual service, however, would also split the loyalty and therefore the effectiveness of the Cabinet-Congressmen.

(3) That the President be authorized to dissolve Congress once in his term, and call for new congressional elections. Congress similarly might be authorized to demand a mid-term presidential election. Either measure would greatly increase the instability of the system.

These suggestions have generally been regarded as impractical, both because of their nature and because of the number of constitutional amendments involved. The most fundamental objection, though, is to the parliamentary system itself, which works much better in a homogeneous state of moderate size than in a continental nation of increasing diversity. Congress, in particular, is so unwieldy that it is hardly in a positon to take on increased executive responsibility, and presidential power needs to be reinforced, not vitiated. Basically, the road to improvement lies in making each branch work more effectively, not in blurring the distinctions between them.

A slightly less drastic step is the frequently heard proposal to limit the President to one six-year term. "No sooner does a President get into the White House than he begins thinking and acting for his re-election," says former Treasury Secretary William E. Simon, who is now engaged in a foundation study of presidential and congressional terms. "The net result of all this is to penalize the country as far as taking the tough decisions that will benefit the national interest." The argument is not persuasive. It is a misguided attempt to depoliticize the White House, to turn the President into a kind of civil servant, when the essence of governmental power is and should be political. More specifically, the question is: If a president is governing well, why force him out after just one term, and if he is doing poorly, why keep him in office for six years rather than four?

[From the Congressional Record, Mar. 18, 1981]

BLUEPRINT FOR A HOUSE THAT WORKS: PART III

Mr. LOTT. Mr. Speaker, last December the President's Commission for a National Agenda for the Eighties released its final report, "A National Agenda for the Eighties." Chapter 5 of that report, entitled "Democracy, Politics, and Institutions in the Eighties," contains an incisive analysis of the current fragmented nature of our Government and thus the difficulty in reconciling competing demands made on the system and in making coherent national policy.

We need look no further than our own House for one of the primary sources of this fragmentation problem that threatens to paralyze our system. As the Commission report notes, our committee jurisdictions are tangled, overlapping, and duplicative, and the multiple referral of bills only exacerbates this problem. The proliferation of subcommittees has further added to the confusion and delay. Finally, our oversight of Federal agencies and programs is uncoordinated, irregular, and lacking in clear priorities.

To address this problem of fragmentation in the legislative branch, the Commission has recommended a reduction in the number of subcommittees, realining committee jurisdictions by function, greater use of ad hoc legislative committees, limiting the multiple referral of bills, and strengthening our oversight and budget processes.

Mr. Speaker, I find myself in agreement with the critique and recommendations of the President's Commission with respect to the Congress. In fact, my own package of committee improvement amendments, House Resolution 100, closely parallels the recommendations of the President's Commission. My House rules amendments would limit all committees, except appropriations, to no more than six subcommittees, and all Members to no more than four subcommittee assignments; they would eliminate the joint referral of bills while retaining split and sequential referrals; and they would establish a procedure for a more formal consideration and adoption of committee oversight agendas at the beginning of each Congress. Moreover, to further strengthen our committee system, my amendments would require majority quorums for the transaction of business, eliminate proxy voting, require equitable party ratios on committees, and provide for adoption of an overall committee staff ceiling resolution at the beginning of each year.

I am currently circulating for cosponsors of House Resolution 100, which I will reintroduce on April 15, and invite my colleagues to join me on this blueprint for a House that works. A more detailed explanation and the text of my resolution can be found in the March 4 Congressional Record at page H785.

At this point in the Record, Mr. Speaker, I include the pertinent portions from chapter 5 of the Commission report, and commend it to the reading of my colleagues. Excerpts from the chapter follow:

[From "A National Agenda for the Eighties," the report of the President's Commission for a National Agenda for the Eighties, December 1980]

CHAPTER 5—DEMOCRACY, POLITICS, AND INSTITUTIONS IN THE EIGHTIES

The Problem of Fragmentation. No society has been able to pursue all of its goals simultaneouly, but the establishment of priorities for the United States in the Eighties will be difficult for several reasons. First, the organization and procedures of our institutions make it increasingly difficult for our political leaders to select among hard choices. Second, our people are (with some reason) cynical about the capacity and good judgment of the government and may resist the attempts of leaders to pursue some goals at the expense of others. Finally, the federal government is involved in more aspects of people's lives than ever before, and so there are more opportunities for the public to be disappointed by the government's performance.

An example of the difficulty our national institutions have had in making coherent national policy is in the field of welfare reform. As Chapter 4 points out, the United States has not one but at least five different types of government welfare programs: government aid to members of the poor, government provision of minimum standards, government insurance against loss of income, government aid for purchasing essentials, and government provision of opportunity.

Of course, a multiplicity of approaches need not be bad. A diverse population may require flexibility in bringing welfare to its people. But many critics agree that we have not too much flexibility but too little. The nature of our political process locks us into anachronistic approaches to welfare which limit the nation's ability to deal with modern problems; our social welfare system is a collection of uncoordinated programs, passed on an ad hoc, program-by-program basis. There is widespread agreement that the programs are too profuse and too complex to serve average citizens well. The programs are also criticized because they are marred by inefficiencies, they contain strong work disincentives, and they are increasingly costly.

There are two major reasons for the inability to reform the welfare system: (1) the presence of "iron triangles" or "subgovernments"—informal alliances of organized interest groups, executive agencies, and Congressional committees; and (2) the fragmented organization of Congress and the executive branch. Comprehensive welfare reform has been stymied by the presence of the iron triangles because such alliances are committed to the support of existing programs. More ambitious proposals failed in part because some of the client groups felt that they would not fare as well under new as under existing programs. Over the years Congressional committee members have also developed loyalties to, and built reputations upon, particular programs. The decentralized committee structures have helped to lock legislators into a program-by-program view of social policy. Consequently, representatives have been reluctant to deemphasize these programs in favor of a more comprehensive approach. And, of course, the same commitment to particular programs and clients also characterizes policymakers in the executive branch.

Comprehensive reform has also been difficult to accomplish because of the fragmented organizations of Congress and the executive branch. The complexity of the income security system is inherent in the very structure of the federal Congressional committee system and executive branch. It is estimated that 119 Congressional committees and subcommittees and 17 departments and agencies have some jurisdiction over the welfare system. This situation is exacerbated by the large number of state, county, and municipal government units which share program policymaking, funding, and administrative roles.

This section suggests several strategies for improving national policymaking: strengthening the parties, reforming federal elections, and improving the organization and procedures in Congress and in the executive branch. Putting into effect any of the proposed methods to restore substantial economic growth, or securing the passage of policies for energy conservation and development, welfare, or health, will require stable, coherent, decisive political leadership in government. The President, our only nationally elected leader, is still the person to whom groups turn when their demands are not satisfied elsewhere. But coherent and long-term leadership will, in turn, only become possible in our democracy through the creation of working political majorities—in the parties, in the Congress, in the executive branch, and among the levels of government in the nation at large.

There is a widespread belief that in recent years society has become increasingly fragmented and government increasingly bogged down. We are well aware that correcting this situation requires great subtlety. The line between paralysis of action and tyranny of the majority is much finer than one might think. Great care has to be taken to ensure that in bringing about working majorities, the rights of minorities are fully protected and that Congress, the President, and the political parties are all held accountable for their actions.

Much of the current difficulty in reconciling competing demands can be traced to the transformation of our political parties. In recent years our parties have become so weakened that they have considerable difficulty in carrying out their functions as a medium for compromise. Public support of the two major parties has declined seriously since the mid-1960s. In interviews, fewer adults say that they have strong confidence in the parties. The proportion of citizens of voting age who identify themselves as strong Democrats or strong Republicans has declined, and a larger proportion view themselves as independents. The amount of split-ticket voting has increased.

Unfortunately, even though the national parties have less support among the electorate, nothing else has arisen to replace them as a means of achieving compromise among the conflicting demands of citizens and as a link between citizens and elected officials. There has been a proliferation of interest groups, which can perform some, but not all, of the functions of parties. Such groups are quite valuable in communicating the needs of their members to elected officials. They are also increasingly effective (through grassroots organizing and through their Political Action Committees) at rewarding some officials and punishing others. The one feature of parties that is not shared by these groups is the capacity to reconcile competing interests and to compromise for the good of the nation as a whole.

The parties no longer have the central role they once had in the selection of candidates, either for the Presidency or the Congress. For the Presidency, a multitude of primaries, dominated by media events, has replaced party officials in the selection of nominees. In Congressional campaigns, parties have an even smaller influence on the selection of candidates. Candidates depend on ad hoc reelection committees, committed primarily to their elections, and on the organizational and fundraising abilities of organized interest groups.

The way in which candidates are recruited has made incumbents independent of the parties for their elections. This independence raises serious questions about the ability of Presidents to get unpopular measures passed, even within their own parties. Of course, every President is better able to influence public opinion than the Representatives and Senators are; every President has a "bully pulpit" which is not available to individual members of Congress. Unfortunately, the power to exhort the public is not usually sufficient to get an administration's program passed, because the members of Congress know that their futures are determined independently of the President's.

Incumbents are not judged on the basis of how well the system as a whole operates, but on how well they are able to explain their individual acts. There is an unfortunate tendency for Presidents to blame "do-nothing" Congresses, for Congress to blame "inefficient" bureaucracies. The point is not that our institutions are blameless, but that it is too easy for individuals to escape responsibility for how well the entire government works.

Particularly in Congress, the tendency to deny responsibility for how well the system as a whole works makes it easier for lawmakers to ignore the cumulative consequences of individual decisions. Many observers believe that our present system of policymaking favors policies that distribute tangible benefits, such as large construction projects, to a relatively large number of Congressional districts because such policies are attractive to members of Congress eager "to bring home the bacon." There is a tendency for members of Congress to vote for individual programs without thinking of the long-term cumulative consequences. There has been some progress in reconciling specific programs with overall goals since the formation of the Congressional budget process, but the political process is still not very effective at producing long-term, decisive policy, particularly in areas where the social and economic impacts and consequences of such policy are destined to work to the advantage of some and the corresponding disadvantage of others.

The widespread public perception that our institutions are not working effectively is reflected in increased cynicism and declining participation in traditional forms of political activity. Over the past two decades, the number of people who vote in national elections has dropped substantially at the same time that public disaffection with the government has grown. Several public opinion surveys since the mid-1960s have attempted to analyze citizens' belief in the responsiveness of government to the public. These surveys have shown that between the mid-1960s and the late 1970s the percentage of people who showed disaffection from government almost doubled, from 31 percent in 1964 to 60 percent in 1976.

Much of this disaffection is doubtless a consequence of the changing role of government in the past 50 years—government is involved in more activities than before, so that there are more opportunities for public dissatisfaction to arise. More people are also putting more demands on government than before, and so there is also the potential for alienation when their demands are not met. But some public alienation surely reflects the widespread belief among citizens that the government has responded inadequately to such troublesome problems as energy, inflation, and international economic competition.

Although the focus here is on the performance of our national institutions, individual citizens should also be encouraged to participate in political life. As the Quality of Life Panel points out in its report, unless there is also improved individual participation in the political process and understanding of issues, necessary broad public support for difficult policies (e.g., on energy) simply will not emerge. Encouragement of individual participation in citizenship activities is also needed, for the sake of the citizens themselves and their communities, as well as for the well-being of the nation as a whole.

The Coalition-Building Approach. Our recommendations are aimed at both public and political institutions. The urgent need for strong, reflective leadership does not, however, justify a major overhaul of the Constitution. There is a heavy burden of proof on proponents of Constitutional change to show that the asserted benefits clearly outweigh the unforeseen costs of changing a Constitution that has worked well for so long. The case in favor of Constitutional change is not strong enough to warrant the risks and unintended consequences that it would bring. In the past 50 years, American political institutions and democratic processes have served us remarkably well through a world depression and war, ongoing acrimonious international rivalry with the USSR, the civil disorders of the Sixties, and the major political crisis of Watergate. Our government has often displayed wisdom, resilience, courage, and, perhaps most important, long-term vision and foresight in projects such as the Marshall Plan of 1948.

Changes in our political institutions must also be based on sensitivity to the needs of many different groups, coupled with a commitment to the protection of minority rights. On many serious issues, there is a legitimate commonality of interests among diverse groups. It is important that the process of building coalitions focus on discovering where the shared interests lie on specific issues and on enlarging the base of support for policy alternatives among a broad range of groups. Our goal is to encourage the development of majorities on some of the most vital yet particularly troubling issues of the times. Such majorities could encourage the Congress and the executive branch to take more effective action on specific issues.

Thus, a degree of reform of American political institutions is needed, not in the expectation that any such mechanical correctives will of themselves give birth to more accountable and efficient two-party government, but in the more modest hope that certain changes will reduce some of the current procedural and structural impediments to coalition building.

Congress. Strengthening the parties will not by itself greatly improve the capacity of Congress to make difficult decisions. Because of its decentralized structure, Congress has great difficulty in dealing with important issues decisively and with dispatch. Recent changes in the seniority system have diffused power among a greater number of members of the House of Representatives, yet such dispersal has, in turn, sometimes made action even more difficult to take. For different reasons, the number of Congressional subcommittees has proliferated, and each subcommittee carries significant authority in its domain to delay or block legislation. The problem is not that Congress consistently makes bad decisions, but that sometimes decisions are unduly delayed. Congress should make an effort to reduce the number of subcommittees—particularly the number of those with legislative responsibility.

There was a variety of proposals for reorganization at the committee level during the Seventies, but only minor changes have occurred. The Senate proved more willing to reorganize itself than did the House, but it still suffers from an unwieldy structure. It is sometimes difficult to obtain agreement on a policy or a piece of legislation because so many decisionmakers are involved. Moving in the direction of greater organization by function could yield a more effective organization and would also more closely parallel the organization of the executive branch, thus making the task of oversight easier.

In the absence of committee reorganization (which may simply prove too difficult to obtain), it is important that party leaders and caucuses continue to experiment with other means of strengthening party discipline and unity. Mechanisms for ensuring that subcommittees and committees are accountable to party leaders might, for example, include greater use of ad hoc committees, such as the House Ad Hoc Committee on Energy, to shortcut unwieldy or unresponsive committees. Another means for ensuring that timely decisions are made would be to give party leaders the power to set time limits as part of the process of multiple referral of bills. Presently, it is too easy for a single committee to delay important legislation. This is to say that there should not be multiple referrals of legislation—different committees can often bring valuable different perspectives to a piece of legislation—but we need to ensure that decisions are made in a timely fashion.

Finally, two of the most important Congressional tasks are overseeing the administration of the executive branch and allocating the federal budget. In these areas, it is not essential that working majorities emergy so that decisions can be reached. Congress has shown concern for improving its oversight, but there remains room for improvement, notably through closer coordination of oversight functions among committees with overlapping jurisdictions and through the establishment of oversight priorities that would ensure the systematic and regular review of all agencies. The creation of the House and Senate Budget Committees, the Congressional Budget Office, and the use of procedures to reconcile separate appropriations with an overall budget ceiling have helped Congress' ability to control the budget. Congress should, however, initiate at least biennial appropriations (instead of the current practice of yearly allocations) to allow for a more thorough Congressional review of programs and to enable agencies to improve their planning processes.

[From the Congressional Record, Mar. 25, 1981]

BLUEPRINT FOR A HOUSE THAT WORKS: PART IV

Mr. LOTT. Mr. Speaker, the distinguished chairman of the House Judiciary Committee, the gentleman from new Jersey (Mr. Rodino), recently wrote a guest column for the Washington Star which I think merits the attention of all Members for what it says about the state of disrepair into which this House has fallen.

After lamenting the fact that it is difficult to get anyone to serve on his Judiciary Committee anymore due to its high-controversy, low-pork barrel potential, Mr. Rodino discusses some of the larger problems which confront this institution today. He suggests that we may have gone too far with some of the reforms of the last decade. Speaking of the prereform era, he says, "The old system was branded unfair and autocratic. Whatever its drawbacks, it has merits."

He goes on to suggest that one of our main problems may be that our committees and subcommittees are no longer representative of the House. To quote from his column:

"We also need to try to bring about philosophical and geographical balance in the committees so that each body, ideally, would be a microcosm of the House itself. This would certainly help refine and temper legislation before it reached the House floor, and, wonder of wonders, perhaps make debate there more constructive and less partisan. And it might even, in time, raise Congress' ranking in public confidence near that of journalists, or used-car salesmen or economists."

Chairman Rodino takes a dim view of the recent proliferation of subcommittees, now at over 150, and their impact on the legislative process. In his words:

"If the trend is not reversed, the day is not far off when every majority member will head a subcommittee. Then we will have no leadership—and no 'followership.' Everybody will be a boss."

Finally, he discusses the problems of scheduling committee meetings and hearings and the conflicts with conducting floor business, suggesting there must be a better way to get our work done, uninterrupted. And he concludes:

"With these modest proposals for reforms of the reforms that I suggest, a better-crafted legislative product would reach the House floor for more thoughtful and informed debate and decision."

Mr. Speaker, I find myself in agreement with many of Chairman Rodino's observations and suggestions. In fact, in offering my Committee Improvement Amendments of 1981, House Resolution 100, I offered a very similar critique of a House that is not working anymore and suggested we needed a blueprint for a House that works. Among other things, my seven amendments to the House rules as they pertain to committees would, as Chairman Rodino has suggested, make our committees and subcommittees more representative of the House as a whole by mandating that party ratios on committees and subcommittees be the same as the House. And, in response to the problem of too many subcommittees, I have offered a rule change that would limit all committees, except Appropriations, to no more than six subcommittees, and all Members to no more than four subcommittee assignments.

To further enhance the goal of quality and representative legislating in our committees and subcommittees, I have proposed that we abolish proxy voting and the one-third quorum rule for marking up legislation, restoring the old majority quorum requirement for transacting any business.

My committee improvements package would also help to reduce the workload and duplication of effort in committees by abolishing the practice of jointly referring bills to more than one committee, while retaining split and sequential referrals.

Finally, my proposals would require the House to vote on an overall committee staff ceiling at the beginning of each year to enable us to retain control over that explosive problem. And House oversight procedures would be strengthened by requiring formal committee adoption of oversight agendas at the beginning of each Congress and House adoption of a consolidated oversight agenda, subject only to amendments from the Government Operations Committee and the majority and minority leaders.

I would urge my colleagues to join in cosponsoring House Resolution 100 when I reintroduce it on April 15, and direct their attention to my introductory remarks at page H785 of the March 4 Record.

At this point in the Record, Mr. Speaker, I include the column by Chairman Rodino and commend it to the reading of my colleagues. The column follows:

[From the Washington Star, Mar. 19, 1981]

THAT OLD JUDICIARY JUST AIN'T WHAT SHE USED TO BE

During most of my 32 years in the House of Representatives a seat on the Judiciary Committee was coveted almost as much as a run for reelection unopposed. I know that I had to wait in line to get to join the committee. (I must confess that I still yearn for reelection unopposed.)

But, among members of my party, that desire no longer flames. The truth be known, a Judiciary seat today is about as attractive to a member as the prospect of closing National Airport.

This development is, I guess, understandable. But it is also regretable. For difficult legal and constitutional issues are on our committee's schedule. Their resolution will require dispassionate and even-handed consideration. It will not be easy. We have a nucleus of battle-tough veterans, along with some willing recruits to help in these decisions. But I do wish we had greater numbers. Today's politics make that impossible.

The current committee is composed of 28 members, 16 Democrats and 12 Republicans. Frankly, we encountered difficulty getting 16.

Through the 1950s and '60s—and as recently as six years ago, when the committee comprised 38 members—we had to turn away applicants. Judiciary was considered a choice and prestigious panel. Members were eager to deal with the great and difficult issues of national moment. We were writing history, and many wanted a hand in the writing.

TOO RISKY

The issues today are no less momentous. The great legislative and policy battles are not behind us. But nowadays membership on the committee is considered by too many too risky.

There are a couple reasons, I think, for this attitude. Foremost, of course, is the rise in truculence and power of the single-issue pressure groups. They can intimidate. One opposes them at one's peril. Consequently, many House members—no matter their conviction—are loath to be on the cutting edge of opposition to these single-minded groups. There is no political mileage in such a stance. Several new members have told me that they would have liked to have served on Judiciary, but that the social issues that will be before us for decision are so volatile that to take a single "wrong" stand or to cast one "wrong" vote is to invite defeat at the polls.

EMOTIONS RUNNING HIGH

This is not to imply that these groups don't deserve or won't get a fair hearing. These are difficult issues—school busing, school prayer, abortion—on which emotions run high on all sides, and on which the law and the Constitution are not precise. There are rational arguments on all sides. Honest debate and thoughtful decision must and will proceed even in the face of the threat of well-financed retribution against those who might go "wrong."

Another reason that Judiciary is no plum is the fact, to put it bluntly, that we have no money to spread around. No grants. No loans. No loan guarantees. No subsidies. It is not surprising, therefore, that, concurrent with the shrinking of Judiciary, the size of the committees with the cash has grown immensely. A spot on these panels permits a member to be hardly visible in controversy—while conspicuously dealing out federal dollars to grateful constituencies. It is a comfortable condition.

It is not at all nostalgic for me to wish that we might return to some of the procedures and reasoning prevailing before the House reforms of 1974. The old system was branded unfair and autocratic. Whatever its drawbacks, it had merits.

Now, I believe in accommodation. But accommodation should not be overriding. It seems to me that our steering and policy group, which now makes the committee assignments, should keep in mind a larger good than that of the member in its decisions. It now appears that it lets a member pick and choose his or her committee. Instead, it should, as was the practice in the past, assess, the expertise and qualifications of new members and assign them where they could best contribute, even if that assignment were not the choice of the member.

I have been dwelling on the problems that politics and the assignment system have created for the Judiciary Committee. But others, Veterans Affairs and the District of Columbia panels, for instance, are beginning to experience the same difficulties. Few members have any interest in serving on them, and the method of assignments lets them go elsewhere.

MICROCOSM

We also need to try to bring about philosophical and geographical balance in the committees so that each body, ideally, would be a microcosm of the House itself. This would certainly help refine and temper legislation before it reached the House floor and, wonder of wonders, perhaps make debate there more constructive and less partisan. And it might even, in time, raise Congress' ranking in public confidence near that of journalists, or used-car salesmen—or economists.

Some uniformity should also be brought to the standing committees. If all the major ones were relatively the same size, we might begin to control the proliferation of subcommittees. They have been sprouting like, I suppose it is fashionable to say, government regulations. There are more than 150 subcommittees. There were 210 separate legislative entities in the House last year. If the trend is not reversed, the day is not far off when every majority member will head a subcommittee. Then we will have no leadership—and no "followership." Everybody will be a boss.

Other changes must be made if we are ever to regain the image of the House as a deliberative body. We have become mired in minutia, in capricious quorum calls and roll-call votes on trivial issues. Members now demand roll-call votes on routine approval of the journal of the previous day's business of the House. This practice, I might add, knows no ideology. The result is that consideration of important matters is continually interrupted and delayed, and issues of great urgency are not adequately debated.

Surely we could better schedule our time, so the entire House could sit to debate and vote on certain days of a week or month, free of committee duties, while at other times the committees could conduct hearings and draft laws without interruption by quorum calls or roll calls. This arrangement could be of great importance today, because we face not only tough social issues that will require calm decision, but also the very unusual remedies the president is proposing for our economic ills.

The hour is probably too late for change that would have immediate effect. But issues of great national import will always be there. With these modest proposals for reforms of the reforms that I suggest, a better-crafted legislative product would reach the House floor for more thoughtful and informed debate and decision.

And then we might more nearly fulfill the obligation of the complete representative described by Edmund Burke: "Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion."

[From the Congressional Record, Mar. 31, 1981]

BLUEPRINT FOR A HOUSE THAT WORKS: PART V

Mr. LOTT. Mr. Speaker, last April 1, the House Select Committee on Committees closed its books by filing its final report. While the report did not receive any attention in the media, and was probably read by few Members, it nevertheless is an important historical document on past and continuing efforts to improve this institution.

But I would especially call the attention of my colleagues to the minority views filed by Congressmen Cleveland, Horton, Frenzel, Leach, and Solomon. This is the most concise statement in the report both of the select committee's findings and recommendations, and of the unfinished institutional reform agenda which the select committee did not consider.

I particularly call attention to this report because so many of the recommendations are similar to the proposed House Rules changes I have included in my own "Committee Improvement Amendments of 1981" (H. Res. 100). Like the select committee, I have concluded that our committee system is so overgrown and fragmented that our House is out of order. Like the select committee, I have proposed that there be no more than six subcommittees per committee, except appropriations, and that Members be limited to no more than four subcommittee assignments. And like the select committee, I have proposed that the multiple referral of bills to more than one committee be limited by designating one committee as a principal committee.

The unfinished agenda put forward in the minority views includes most of my other suggested Rules changes. First, the House should adopt an overall ceiling on committee staff. Second, proxy voting in committee should be abolished. Third, oversight should be strengthened by formalizing the process of establishing committee oversight agendas and making proper provision for their coordination through the Government Operations Committee. Fourth, House Rules should be amended to require that the committee party ratios reflect the overall party ratio in the House.

The only other proposal contained in my Committee Improvement Amendments which has not been recommended either by the select committee or the minority views is a requirement that we restore majority quorums in committees for the transaction of any business.

Mr. Speaker, on april 15 I intend to reintroduce House Resolution 100, the Committee Improvement Amendments, with cosponsors, and I invite my colleagues to join in this blueprint for a House that works. For the test of my resolution and a more detailed explanation I refer my colleagues to my introductory remarks in the March 4 Record at page H 785.

At this point in the Record, Mr. Speaker, I include the excerpts from the minority views to the select committee report to which I have alluded. The views follow:

[From the final report of the Select Committee on Committees (H. Rept. 96-866), Apr. 1, 1980]

MINORITY VIEWS OF HON. JAMES C. CLEVELAND, HON. FRANK HORTON, HON. BILL FRENZEL, HON. JIM LEACH AND HON. GERALD B. H. SOLOMON

INTRODUCTION

Early last Fall, the Select Committee on Committees mailed the first of two questionnaires in which we solicited our colleagues' views on general and particular aspects of the House committee system. About 200 Members responded.

The first part of the questionnaire consisted of a series of statements reflecting a range of attitudes toward committee reform. The responses we received seem now—as we near the end of our work—to have been especially significant.

77 percent of Members respondig agreed that "The House committee system is in disarray and comprehensive revision of the system should be given high priority."

However, 86 percent of respondents felt that "Most Members would be more likely to accept a relatively few modest changes, rather than a comprehensive revision."

Nevertheless, 80 percent of respondents took the position that "Committee system revision is so necessary that it should be pursued even if Members see themselves adversely affected by specific jurisdictional or other changes."

And Members reaffirmed this conviction by disagreeing—14 percent to 86 percent—with the proposition that "Committee system revision should be limited to changes which do affect Members' positions or jurisdictions."

In light of what has happened since, how should one describe these judgments—prophetic, realistic, or cynical, or all three? In October, 1979, Members seemed to be telling us that committee system change was so necessary that the Select Committee should not be inhibited by the possibility that Members might reject more than modest changes. By April, 1980, as the committee passed its reporting deadline, not a single recommendation had been approved by the House, despite the fact those recommendations were hardly radical.

We must leave the final answer to the question to our colleagues.

In any event, the minority members of the Select Committee on Committees believes there may be considerable value in reflecting on the committee's experience over the past 11 months, drawing certain conclusions from that experience, and submitting some specific recommendations.

SELECT COMMITTEE PROPOSALS

Following is a brief summary of each of the Select Committee's five major recommendations, all of which were reported in accordance with the provisions of H. Res. 118 and were accompanied by written reports which have since been printed:

Reduction of Committee Scheduling Conflicts

The Select Committee recommended unanimously the adoption of a committee and subcommittee scheduling formula which would eliminate approximately 75 percent of the conflicts experienced by Members scheduled to attend meetings held at the same time. Such conflicts have made it increasingly difficult for committees and subcommittees to obtain and to hold the quorums necessary for the transaction of business.

The Select Committee's proposed formula, the product of intensive analysis of all committee and subcommittee meeting held in the 95th Congress, assigned to each of two groups of committees specific days on which they could meet for the purposes of marking up and reporting legislation and for transacting business. No restrictions were placed on committee hearings, and exclusive committees were not affected.

Following the unanimous approval of the Select Committee, the reported resolution (H. Res. 404) was granted a rule by the Rules Committee. To date, it has not been scheduled for consideration by the House, presumably because of opposition expressed by some committee chairmen.

We continue to believe that H. Res. 404 would achieve substantial benefits at a modest cost in inconvenience—a cost which would be further reduced, when necessary, by resort to a procedure for holding emergency meetings. Nevertherless, reduction of scheduling conflicts is so important that we believe consideration should be given by the Rules Committee to an adjustment in the proposed formula reducing the number of days on which committees are prohibited from meeting. A moderate adjustment, although it would reduce the impact of the committee's formula, would also preserve the principle of the recommendation and retain a substantial proportion of its benefit.

Limits on the Number of Subcommittees

The Select Committee recommended unanimously that all standing committees, except the Appropriations Committee, be limited to no more than six subcommittees. Over the next three Congresses, this recommendation would lead to the elimination of 28 of the present 155 subcommittees and similar sub-units.

Although the net effect would be modest, this recommendation would immediately arrest the continuing proliferation of House subcommittees, a trend which has fragmented the legislative and oversight processes and weakened the House committee system.

Limits on Members' Subcommittee Assignments

The Select Committee recommended that individual Members be limited to no more than five subcommittee assignments. For purposes of the limitation, subcommittees included all subunits of committees which are created for more than six months and counted assignments to select, joint, and ad hoc committees as one subcommittee assignment. The recommendation, over the next two Congresses, requires 91 incumbent Members to give up one or more subcommittee assignments.

Like its companion recommendation limiting the number of sucommittees, this recommendation would reverse a debilitating trend in the House by virtue of which many Members are stretched so thinly as to be unable to devote adequate attention to their committee responsibilities, and—conversely—many committees and subcommittees are forced to rely for active participation on a relatively few Members.

Under H. Res. 118, both recommendations were reported to the Democratic Caucus and the Republican Conference. Whereas the Republican Conference (and its Policy Committee) endorsed both recommendations shortly after they were reported, the Democratic Caucus has not yet acted on either.

We believe these twin recommendations, if adopted, may ultimately be considered the most significant legacies of this Select Committee. In view of their importance and of the overwhelming support both objectives received from Members of both parties who responded to the Select Committee's surveys, we hope the Democratic Caucus will act expeditiously to approve and implement the recommendations.

Multiple Referral Reform

The Select Committee unanimously approved a comprehensive revision of the multiple referral system, including these major features:

On all joint referrals of legislation, one committee would be designated the primary committee.

Secondary committees in the referral would be required to report within a time certain after the primary Committee reported.

All sequential referrals would be subject to definite time limits.

Sequential referrals would be permitted when the reporting committee included amendments which invaded other committees' jurisdictions.

This proposal would reduce the substantial delays that characterize multiple referred bills and also assure committees the opportunity to consider legislation within their jurisdictions.

* * * * * * *

UNCOMPLETED WORK

Despite the high priority which attached to the five major proposals reported by the Select Committee, and in spite of the limited time that was available in which to complete our work, it is a cause of considerable disappointment to minority members that the Select Committee failed to consider additional issues of significance to the institution. At a minimum, we believe the committee should have devoted serious attention to the following subjects: equitable party ratios on committees and subcommittees, a ceiling or cap on committee staffs, improved oversight, legislation in appropriations bills, proxy voting, additional realignment of jurisdictions, minority staffing, and improved coordination of services provided committees by the legislative support agencies. Each of these subjects was accorded high priority by Members in the process of selecting issues for consideration, and considerable staff work was done on several of the topics, especially by minority staff.

Following is a synopsis of our views on each of these issues:

Ceiling On Committee Staffs

Professional staff positions for congressional committees were first established in the Legislative Reorganization Act of 1946. For nearly three decades thereafter, the growth in the size of committee staffs was relatively slow and manageable. However, during the past few years, the House—as well as the Senate—has witnessed an exponential increase in committee employment of unanticipated proportions. From 1973 to 1979, House committee staffs more than doubled in size. In 1973, House committees employed 918 committee personnel; by 1979, this figure reached 1,939. Similarly, the spending for committee staff evidenced an equally remarkable spurt—from $14 million in 1973 to over $40 million in 1979.

Several factors explain this committee staff explosion. First, the House desired to broaden its issue expertise to achieve a greater measure of independence from the executive bureaucracy. Second, the sheer complexity of contemporary issues demanded the acquisition of specialized and technical staff knowledge. Third, the proliferation of subcommittees necessitated the hiring of additional staff support.

When properly utilized, the growth of staff has assisted the House in asserting an effective leadership role in policy decisions. Nevertheless, the advantages of staff assistance has rapidly diminished with the recognition that the increase has been too fast, too large, and too inefficiently distributed. Committees now display their own staff bureaucracies which are often unwieldly, inbred, and self-perpetuating. Members, lacking the time to adequately supervise and control staff, often cede to staff the right to determine priorities and to set the legislative agenda.

Granted, the increase in committee staff represents only one aspect of a wider phenomenon. The size of Members' personal staffs and of congressional support agencies have evidences similar trends. However, the growth in committee staff appears, to date, uniquely uncontrollable. Although restrictions exist as to hiring of so-called "statutory" staff, "investigative" staff—which comprises the bulk of committee employees—is subject to few restraints.

We recommend that the House establish an overall limit on the size of committee staffs. Two years ago, the Congress approved the Civil Service Reform Act which included a House-passed amendment establishing a limit on federal employment levels. If such a ceiling were deemed necessary for the executive branch, it appears that a limit for House committee staff would likewise be appropriate.

The House has benefited greatly from the dedication and knowledge of its committee staff. Yet this institution must recognize that continued, unchecked expansion will impede, rather than facilitate, the legislative process—and undermine, rather than heighten, the quality of staff assistance now available. The imposition of a staff ceiling would be a useful tool to counter the growing committee bureaucratization, to impose fiscal discipline, and to ensure the responsive nature of the House to constituency needs.

Minority Staffing

The issue of providing the minority party with adequate committee staff support has been a persistent topic on the congressional reform agenda. Twice in the last decade—during the debate on the Legislative Reorganization Act of 1970 and the Committee Reform Amendments of 1974—the House has adopted amendments stipulating that the minority be earmarked a one-third share of committee funding resolutions allocated for staff hire. Subsequently—in 1971 and 1975—the Democratic Caucus nullified the one-third minority staffing provisions.

The lack of sufficient committee staff impedes the minority in the promotion of policy initiatives and the articulation of legislative alternatives. Presently, as stipulated in the House Rules, the minority is entitled to one-third of the statutory staff. Nonetheless, the vast majority of staff personnel is hired pursuant to committee funding resolutions where no such guidelines apply. The Bolling-Martin Select Committee revealed that in May 1973 only 16.7 percent of committee staff were assigned to the minority. A February 1979 study conducted by the Office of the Minority Leader revealed little improvement—only 18.7 percent of committee staff were assigned to the minority.

According to the Select Committee's first questionnaire, the House would be favorably inclined to incorporate a one-third-staffing provision in the Rules of the

House. A majority of Democrats who responded endorsed such a proposal; among Republicans, there was near unanimity of support.

Understandably House Members, in the wake of the staff explosion during the last few years and its accompanying financial costs, are reluctant to approve any provision which might fuel a further staff expansion. Yet, the issue of staff growth and the issue of establishing standards for minority/majority staff allocations are uniquely separable items. Equitable minority staffing does not presume any escalation in staff growth. Rather, it would be a benefical complement not only to the capabilities of the minority party, but more importantly to the institution as a whole. It is a reform worthy of the House's attention.

Proxy Voting

Proxy voting is recognized not only as counterproductive to the day-to-day functioning of legislative business, but it is also a practice distinctively ill-suited to representative government.

When last confronted with a direct vote on this issue (during the floor debate on the Committee Reform Amendments of 1974), the House adopted an amendment banning proxy voting. Regrettably, this prescription was shortlived as the Democratic Caucus reinstituted the practice a few months later.

The defects of proxy voting are readily apparent. This procedure reinforces the haphazard, often chaotic, scheduling of committee and subcommittee meetings. The persistence of meeting conflicts tends to be tolerated as long as Members can conveniently rely on proxies; consequently, the allowance of proxies subverts meaningful attempts to institute an orderly framework of committee scheduling. Proxy voting also encourages absenteeism by dispelling any urgency for Members to appear personally in order to be recorded on committee votes.

Proxy voting—by permitting committee participation to be accorded a diminished priority—incurs a serious cost for the democratic process. By resorting to proxies, a Member forfeits the opportunity to engage directly in the dynamics of debate—one neither contributes to nor is influenced by, the arguments which may determine the final disposition of the amendments or measure under consideration. Policy decisions are therefore often formulated by a limited number of Members to whom, through proxies, other Representatives have ceded their rights of decision. Further, the occasional misvoting or misuse of proxies serves only to perpetuate the prevailing attitude of public cynicism towards legislative conduct.

Proxy voting is not permitted in votes on the House floor. It appears equally inappropriate in the initial stages of policy-making at the committee level. The incorporation, within the Rules of the House, of an outright prohibition of proxy voting would be a welcome reform.

* * * * * * *

Improved Oversight

There is ample evidence that marked dissatisfaction exists among House Members concerning the quality of the oversight produced by the House committees.

In its survey of Members' views, the Select Committee included a section on "strengthening oversight" and asked Members to categorize the degree of importance they assigned this task; high, medium, and low. Of the Members who responded to this question 74 percent felt strongly about increasing oversight, while 4.9 percent gave it low priority. The canvass also revealed that 77 percent of the Members believed that committees were not doing an adequate job of oversight while only 15 percent felt that they were.

The great majority of responding Members also concurred that the following factors were chiefly responsible for poor oversight:

	Yes	No
Lack of committee determination	88	12
Inadequate committee planning	85	15
Failure to follow through on findings	86	14

House Rules currently require that all Standing Committees, except Appropriations and Budget, conduct oversight in their jurisdictions. Clause 2(c) of Rule X specifies that at the beginning of each Congress, the Government Operations Committee will "assist in coordinating all of the oversight activities of the House", and that within 60 days after the new Congress convenes the committee will submit a report to the House containing the results of its meetings with standing committees and its recommendations "to assure the most effective coordination of such (oversight) activities".

Most Members—and the Government Operations Committee (GOC) agrees—believe the committee's oversight coordination function is too limited and undefined to be effective.

In the last Congress, the GOC, reporting on its responsibilities under Rule X, noted that "intent has never been spelled out in any legislative history or in any directive" to the committee. It added that its function was only one of coordination and that the rule did not give it "any power to supervise other committees". It stressed that "if" the committees would examine the proposed oversight of sister committees, the rule's objectives could be met. (H. Rpt. No. 95-1815)

At the beginning of the 96th Congress, the GOC felt constrained to point out—after some committees had noted that it was impossible to delineate their oversight plans and others had submitted theirs "so late that there was no opportunity for GOC . . . to review them"—that it was "still not convinced" that, as presently structured, the oversight report function was a practical or effective solution to the problem. It added that "many of the other committees" also shared this conclusion.

A second problem which can be deducted from GOC's published oversight reports is that the standing committees themselves do not wish to have their oversight activities monitored.

A staff review of the oversight conducted by a number of subcommittees indicated that self-policing by committees of their own oversight role has let to serious abuse in the House during the 95th Congress as the following examples indicated.

One committee had three subcommittees which collectively held only 20 meetings of all types—including oversight—which consumed 1,572 minutes. Together, they expended 186 minutes or about 3 hours in oversight during the two-year span, 1977-78. Of these 3 subcommittees, one spent 47 minutes in oversight, and another, zero minutes. These subcommittees ranked 121st, 127th, and 128th, out of 130 subcommittees, in minutes spent at meetings of all types.

Another committee had two subcommittees with workloads which clearly were not excessive. One subcommittee spent 20 hours or 1,200 minutes in meetings of all types during the 95th Congress, of which 152 minutes or about 2½ hours were extended on oversight. And even when its 85 minutes in "investigative" activities was added to its oversight ledger this would only increase its total to 4 hours or about half a day in two years for this task. At the end of the 95th Congress, it stated that it had "conducted 'review' on 23 matters", but its published data appeared to fall short of this figure by 11 "matters".

A second subcommittee of the standing committee, which was an investigative subcommittee, spent 965 minutes or 16 hours at all types of meetings, which ranked it 117th among 130 subcommittees in "minutes spent in sessions". The oversight portion of meetings was 14.8 hours, or about one day per year for that Congress. Unaccounted for, was oversight or investigative performance on two, possibly three, topics slated for "review", as promised at the beginning of that Congress.

Another standing committee had 2 subcommittees which ranked 118th and 120th. One subcommittee spent 888 minutes in all meetings, or about one day in meeting time, including oversight, per year. Of the 888 minutes, only 282 minutes were spent in oversight; 2.2 hours in 1977, and 2.5 hours in 1978.

The second subcommittee spent 914 minutes at meetings for the 95th Congress, of which 269 were spent in oversight; 177 in 1977, and 92 in 1978. This subcommittee has oversight jurisdiction over a Federal program which spent over $25 billion during the 95th Congress. Yet, only about one-half day during a two-year span was spent overseeing this vast project.

The examples cited above are based in an examination of committee documents and the Select Committee data base which identify formal sessions only. Since informal oversight and investigative activities are not generally classified in Committee calendars these were not taken into account except insofar as they were listed by the Committees in Government Operations Committee's reports, or in their funding resolution reports to the House Administration Committee.

Overall, House oversight activities, for a disturbingly large number of Subcommittees, have fared poorly in relation to other activities, especially legislative. A mere tightening of committee reporting procedures, long overdue, or a clearer classification in House documents, of meetings in terms of their purposes, will not resolve the issue of committee accountability for oversight.

Since full committees, generally, cannot or will not impose upon their subcommittees enforceable standards for the performance of oversight, we believe it is incumbent upon the House to establish more effective procedures for assuring that oversight of Federal programs and activities is conducted in a more orderly, systematic, and coordinated manner. Specifically, we recommend that action on so-called "sunset" legislation, now pending before the Committee on Rules, be completed without undue delay and brought before the House for decision.

In addition—unless specific provisions of sunset legislation should make the following steps unnecessary—we believe improved oversight could be enhanced by:

Clarifying in the House rules the authority of the Committee on Government Operations to establish standards by which committees report their oversight plans and to coordinate more effectively the implementation of those plans; or, in the alternative, providing for a more appropriate means of improving such planning and coordination.

Developing specific procedures by which the Subcommittee on Accounts of the Committee on House Administration, in connection with its responsibility for committee funding resolutions, can hold committees accountable for the accomplishment of oversight activities for which they request funds—an objective in which the subcommittee has already demonstrated an active interest.

Equitable Committee Ratios

During most of the twentieth century, committee rations have been determined by informal agreements negotiated between the majority and minority leaderships. Traditionally, the ration of majority and minority representation has usually paralleled the party division in the full House.

Recent Congresses, however, have witnessed a growing disparity between the division of party strength in the full House and the ratios prescribed for House committees. By vote of the Democratic Caucus, ratio formulas were imposed in the 94th and 95th Congresses which significantly undercounted the minority in the allocation of committee seats.

In the 96th Congress, as of January 1980, the minority party was underrepresented by one or more seats on nine standing committees—and on approximately one-third of the over 150 standing subcommittees. Alternatively, on no standing committee (except for the evenly divided Committee on Standards of Official Conduct) and on only three subcommittees were House Republicans over-represented.

These assignment practices substantially limit the effective participation of the minority at the primary level of legislative decision-making—committees and subcommittees. The ability of the minority to advance viewpoints, promote amendments, and implement reforms is impaired by the adoption of such inequitable ratios.

We believe that serious attention should be focused on this question. One alternative which has been offered—and which merits scrutiny—would be to incorporate in the Rules of the House the requirement that any allotment of committee seats reflect, to the closest degree possible, the proportional ratio of the parties in the House as a whole. Such a proposal might offer a neutral corrective to ensure that any minority party would be accorded fair treatment in committee allocations. Indeed, a similar recommendation was outlined by Minority Leader Gerald Ford in testimony before the Bolling-Martin Select Committee on Committees in 1973.

We submit that the question of committee ratios should not be read in partisan terms. Rather, equitable committee allocations are an assurance that committees fairly reflect and represent the substantive views of both parties in the process of policy deliberation.

[From the Congressional Record, Apr. 7, 1981]

BLUEPRINT FOR A HOUSE THAT WORKS: PART VI

Mr. LOTT. Mr. Speaker, during the last Congress our Select Committee on Committees surveyed Members on a wide variety of issues relating to the House as an institution. Nearly 70 percent of the respondents agreed with the proposition that the House committee system is in disarray and in drastic need of revision, while only 21 percent disagreed.

My own committee improvement amendments, House Resolution 100, introduced on March 4 of this year, stems from that same conviction that our committee system is becoming increasingly fragmented, unworkable, and unmanageable, and as a result, the legislative process is at the point of breakdown and paralysis. Our committee jurisdictions are badly tangled, we have too many subcommittees, subcommittee assignments, and staff. As a result of this proliferation of subcommittees we have been forced to resort to such phantom legislative procedures as miniquorums and proxy voting. And our oversight function is being largely overlooked. What is clearly needed is a "Blueprint for a House that Works," and my committee improvement package is designed to meet that need.

In today's blueprint discussion, I would like to relate my proposals to the results of the select committee's survey.

One of my proposals calls for a limitation on subcommittees to no more than six per committee, and a limitation on Member subcommittee assignments to no more than four. According to the survey, 81 percent to the Members agree that the number of subcommittees should be reduced, and 82.6 percent agree that a limitation should be placed on Member subcommittee assignments. The select committee endorsed limitations similar to those contained in my proposal.

Another one of my amendments calls for the abolition of joint bill referral, while retaining split and sequential referrals. While only 28.4 percent of the Members favor this idea and 34 percent oppose it, another 37.6 percent either gave no answer or were undecided. And 62.4 percent of the Members agreed that in joint referrals a lead committeee should be designated and given authority to bring a bill to the floor if secondary committees have not reported within a specified period of time. My proposal likewise requires the designation of committees of principal jurisdiction in multiple referrals and expands the sequential referral authority. The select committee also endorsed this lead committee proposal.

On the issue of phantom legislative procedures, I have proposed the abolition of proxy voting in committees and the restoration of a majority quorum requirement for transacting business, as opposed to the present one-third quorum requirement. While the proxy voting ban was narrowly opposed by Members by a margin of 43.5 percent tot 52.5 percent, over 75 percent of House Republicans favor such a ban. And the majority quorum requirement is favored by all Members by a margin of 47.8 percent to 42.4 percent.

My committee improvement package also calls for the House adoption of an overall committee staff ceiling at the beginning of each year, to which the committee funding resolutions would then have to conform. Some 63 percent of the respondents agree that committee staffs are too big, and over 80 percent agree that some kind of ceiling should be placed on committee staff overall.

I have also called for a strengthening of our oversight procedures by requiring formal committee adoption of oversight agendas, and House adoption of a consolidated oversight agenda, giving the Government Operations Committee and the majority and minority leaders authority to propose amendments to those agendas. Over 75 percent of the Members in the survey agree that the House is not doing an adequate job of oversight, and, by a margin of 39 to 32.6 percent, Members agree that the oversight coordination role of the Government Operations Committee should be strengthened.

Unfortunately, the select committee did not ask a question on my final proposal, which is to require equitable party ratios on House committees in line with the overall House party ratio.

Mr. Speaker, on April 15 I intend to reintroduce House Resolution 100 with cosponsors, and I invite my colleagues to join on this "Blueprint for a House that Works." A fuller explanation can be found at page H785 of the March 4 Record. At this point in the Record I include the relevant portions of the select committee's survey from the 96th Congress. The survey follows:

SELECTED EXCERPTS FROM SURVEY OF HOUSE MEMBERS, 96TH CONGRESS, BY SELECT COMMITTEE ON COMMITTEES[1]

[In percent]

	Democrats			Republicans			Combined		
	Yes	No	Undecided	Yes	No	Undecided	Yes	No	Undecided
Is the House committee system in disarray?	67.2	23	9.8	74	17.7	8	69.6	21.2	9.2
Should the number of subcommittee assignments be reduced? [2]	80	7	12	82	13	4.8	81	9.2	9.8
Should member subcommittees be limited? [3]	78	5.7	16.4	92	4.8	3.2	82.6	5.4	12
Should proxy voting be prohibited?	27	68	5	75.8	22.6	1.6	43.5	52.7	3.8
Should majority quorums be required for business?	34.4	54	11.5	74.2	19.4	6.4	47.8	42.4	9.8
Are committee staffs too big?	56.5	27	16.4	75.8	16	8	63	23.4	13.6

SELECTED EXCERPTS FROM SURVEY OF HOUSE MEMBERS, 96TH CONGRESS, BY SELECT COMMITTEE ON COMMITTEES[1]—Continued

[In percent]

	Democrats			Republicans			Combined		
	Yes	No	Undecided	Yes	No	Undecided	Yes	No	Undecided
Have large staffs contributed to fragmentation and unmanageability of committee system?	57.3	24.6	18	71	11.3	17.7	62	20	18
Should some kind of ceiling be placed on committee staff overall?	73	15.6	11.5	95	3.2	1.6	80.4	11.4	8.2
Are House committees doing an adequate job of oversight?	21.3	68.8	9.8	4.8	88.7	6.5	15.7	75.5	8.7
Should the oversight coordination role of the Government Operations Committee be strengthened?	38.5	31.1	30.3	40.3	35.5	24.2	39	32.6	28.3
Should joint referrals of bills be abolished while retaining split and sequential referrals?	28.6	31.2	40.3	28	40.6	31.3	28.4	34	37.6
On joint referrals, should a lead committee be designated?	66.2	9	24.7	53	15.6	31.3	62.4	11	26.6

[1] The total number of respondents to questions 1 to 9 was 184: 122 Democrats (66.3 percent), and 62 Republicans (33.7 percent). Questions 10 and 11 are taken from a second survey to which there were 109 respondents: 77 Democrats (70.6 percent), and 32 Republicans (29.3 percent).

[2] Of the combined totals, 64 percent felt committees should be limited to 6 or less subcommittees.

[3] Of the combined totals, 62 percent felt Members should be limited to 4 or less subcommittees.

[From the Congressional Record, Apr. 29, 1981]

BLUEPRINT FOR A HOUSE THAT WORKS: PART VII

Mr. LOTT. Mr. Speaker, today I am reintroducing House Resolution 100, the Committee Improvement Amendments of 1981, with 100 cosponsors. This package of seven amendments to our House rules is designed to make our committee system more manageable and accountable by reducing the number of subcommittees and Member subcommittee assignments: eliminating one-third quorums, proxy voting, and joint bill referrals; requiring equitable party ratios on all committees; requiring formal adoption of committee and House oversight agendas; and providing for the adoption of an overall committee staff ceiling each year.

Mr. Speaker, I have termed this package a "Blueprint for a House That Works," because I think the legislative process in this House is becoming increasingly unworkable and unmanageable due to the breakdown in the committee system. One of the chief causes of this breakdown is the proliferation of subcommittees in recent years—from 69 subcommittees of 19 standing committees in 1951, to 152 subcommittees on 22 standing committees in 1979—a 120-percent increase.

In the last Congress the Select Committee on Committees recommended that all committees, except Appropriations, be limited to no more than six subcommittees, and that all Members be limited to no more than five subcommittee assignments, counting each select and joint committee assignment as one subcommittee assignment. While that proposal received the immediate endorsement of the House Republican Conference and Policy Committee, it never emerged from the Democratic Caucus and therefore was not considered by the House during the 96th Congress.

Instead, at the beginning of this Congress the Democratic Caucus adopted a caucus rule that all committees, except Appropriations, shall have no more than eight subcommittees, or the number of subcommittees they had in the last Congress, whichever is fewer. Moreover, the rule provides that exclusive committees having fewer than six subcommittees may increase the number to six, and committees with more than 35 members may do the same, and may even increase the number to seven upon the granting of a waiver of the limitation by the Steering and Policy Committee. Perhaps as a result of this rule, the number of subcommittees of standing committees at the beginning of this Congress has been reduced by 11, from 152 to 141. But this is still too many.

The proposal contained in my "Committee Improvement Amendments" would limit all committees, except Appropriations, to no more six subcommittees. This would result in a further reduction of 17 subcommittees from the present 141, bringing the total down to 124.

Moreover, my proposal would limit all Members to no more than four subcommittee assignments on our standing committees.

As the Select Committee on Committees in the 96th Congress noted in its report on its subcommittee limitation proposal:

"On no other issue concerning committee system revision has the Select Committee on Committees found greater agreement on the part of a wider spectrum of Members, staffs and students of Congress than that there are too many subcommittees in the House and that Members have too many subcommittee assignments."

And the report went on:

"This broad agreement extends, too, to both the causes of subcommittee proliferation and Member over-extension and to the adverse effects of this twin phenomenon. . . . Proliferation of the units through which policy is shaped and policy implementation overseen by the House has had a severely centrifugal effect, decentralizing and fragmenting the policy process and stripping policy formation and oversight of much of its coherence and rationality. The growing burden of their committee-subcommittee assignment responsibilities has limited Members' capacity to master the substance of this work, reduced their ability to direct and control the institutional structure of the House, and resulted in the rapid growth of Congressional staff and in too extensive a delegation of authority to non-elected aides."

Mr. Speaker, as I noted in part VI of my "blueprint" discussion, a survey of House Members in the last Congress by that same select committee revealed that 81 percent of the Members agreed that the number of subcommittees should be reduced, and 82.6 percent agreed that a limitation should be placed on Member subcommittee assignments. Moreover, 64 percent agreed that committees should be limited to six or less subcommittees, and 62 percent felt that Members should be limited to four or less subcommittee assignments.

Mr. Speaker, I hope now that an impressive number of our colleagues have joined as cosponsors of House Resolution 100 the chairman of the Rules Committee will consent to holding hearings on these and other proposals to improve our committee system. The future of the legislative process, indeed of our representative form of government, is dependent on a strong and accountable committee system—something which we are now sadly lacking.

At this point in the Record, Mr. Speaker, I include a list of cosponsors of House Resolution 100 and a table on House subcommittees:

CONSPONSORS OF HOUSE RESOLUTION 100: THE COMMITTEE IMPROVEMENT AMENDMENTS

Mr. Badham, Mr. Bafalis, Mr. Benedict, Mr. Bereuter, Mr. Bliley, Mr. Brown of Colorado, Mr. Broyhill, Mr. Burgener, Mr. Butler, Mr. Campbell.

Mr. Cheney, Mr. Coats, Mr. Collins of Texas, Mr. Corcoran, Mr. James K. Coyne, Mr. Craig, Mr. Robert W. Daniel, Jr., Mr. Dannemeyer, Mr. Deckard, Mr. Dehardis.

Mr. Derwinski, Mr. Emerson, Mr. Emery, Mr. Erdahl, Mr. Erlenborn, Mr. Evans of Delaware, Mrs. Fenwick, Mr. Fields, Mr. Findley, Mr. Forsythe.

Mr. Frenzel, Mr. Gilman, Mr. Gingrich, Mr. Gradison, Mr. Gregg, Mr. Grisham, Mr. Gunderson, Mr. Hansen of Utah, Mr. Hartnett, Mr. Hendon.

Mr. Hiler, Mr. Horton, Mr. Jeffries, Mr. Johnston, Mr. Lagomarsino, Mr. Latta, Mr. LeBoutillier, Mr. Lent, Mr. Livingston, Mr Loeffler.

Mr. Lowery of California, Mr. Lungren, Mr. McClory, Mr. McCloskey, Mr. McCollum, Mr. McDonald, Mr. McEwen, Mr. McGrath, Mr. McKinney, Mr. Madigan.

Mr. Martin of New York, Mr. Martin of North Carolina, Mr. Michel, Mr. Miller of Ohio, Mr. Moore, Mr. Moorhead, Mr. O'Brien, Mr. Parris, Mr. Pashayan, Mr. Paul.

Mr. Pritchard, Mr. Railsback, Mr. Rinaldo, Mr. Roberts of Kansas, Mr. Rogers, Mr. Rousselot, Mr. Sawyer, Mr. Sensenbrenner, Mr. Shaw, Mr. Skeen.

Mr. Smith of Alabama, Mr. Smith of New Jersey, Mr. Solomon, Mr. Stangeland, Mr. Stanton, Mr. Staton, Mr. Tauke, Mr. Taylor, Mr. Thomas, Mr. Walker.

Mr. Weber of Ohio, Mr. Weber of Minnesota, Mr. Whitehurst, Mr. Winn, Mr. Wolf, Mr. Young of Florida, Mr. Bailey of Missouri, Mr. Kemp, Mrs. Martin of Illinois, Mr. Courter.

SUBCOMMITTEES OF HOUSE STANDING COMMITTEES, 96TH AND 97TH CONGRESSES

Committee	Subcommittees		Limit of 6
	96th Cong.	97th Cong.	
Agriculture	10	8	−2
Appropriations [1]	13	13	0
Armed Services	9	7	−1
Banking, Finance and Urban Affairs	9	8	−2
Budget	9	9	−3
District of Columbia	4	3	0
Education and Labor	9	8	−2
Energy and Commerce	6	6	0
Foreign Affairs	8	8	−2
Government Operations	7	7	−1
House Administration	8	7	−1
Interior and Insular Affairs	7	6	0
Judiciary	7	7	−1
Merchant Marine and Fisheries	6	5	0
Post Office and Civil Service	7	7	−1
Public Works and Transportation	6	6	0
Rules	2	2	0
Science and Technology	7	7	−1
Small Business	7	6	0
Standards of Official Conduct	0	0	0
Veterans' Affairs	5	5	0
Ways and Means	6	6	0
Total	152	141	−17

[1] The Appropriations Committee would be exempt from the limitation of 6 subcommittees per committee.

[Statements submitted to be included in the record of today's hearing, as though read, follow:]

STATEMENT OF HON. CHARLES PASHAYAN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. **Pashayan**. We all know that the primary site of the work of Congress is the committee. It is in committee that legislation is first reviewed, debated, revised, and voted on. For the majority of legislation, the committee is the only body to give substantial deliberation. This is as it should be. The committee system has evolved slowly and carefully to meet the needs of Congress and only through this system can Congress meet its legislative demand.

However, the very importance of the committee system, the fundamental link between the quality of the system and the quality of the governing nation, dictates that it must meet a special standard of integrity. Representation must be fair, committees must run efficiently, and the members of those committees must be accountable. It is to help assure that this special standard is met, that the system is representative, efficient, and accountable, that the Committee Improvement Act of 1981 should be passed.

The establishment of a calendar for the formation of an oversight agenda makes committees more accountable in this important, and frequently foresaken, duty. Too often Congress has passed legislation, failed to determine whether it had solved the problem. Oversight is an essential congressional duty. The establishment of an oversight agenda will mandate accountability. A committee's failure to formulate an agenda, or to act upon that agenda once formulated, will be a clear signal that it is foresaking its responsibilities.

Requiring that the ratio of majority and minority members on committees reflect the ratio of the full House increases both the efficiency and the fairness of representation of the committees. Assignment based upon the party ratio of the full House will help to assure that the work loads of the individual members are more nearly equal. When assignments are made in a ratio other than that of the full membership, one party will be made to bear a share of the effort greater than proportionate. This inefficiently overworks some members and underemploys others. It is also unrepresentative, giving to one party a greater proportion of influence in the committees than its numbers in the full House entitle it to.

These and other aspects of the act, such as the elimination of proxy voting, the change in the quorum requirement, and the elimination of the assignment of bills to separate committees for concurrent consideration, are designed to make the committee process more efficient, representative, and accountable. They would help to guarantee that no member or party should be burdened with an unfair amount of work or allowed to wield an unfair amount of influence. They would hold the committee member accountable for their actions. The act should be passed. The people have a right to expect this high level of responsibility from their Congress.

STATEMENT OF HON. BILL FRENZEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. **Frenzel**. Mssrs. Chairmen and members of the subcommittees, I appreciate the opportunity to submit testimony on House Resolution 100, the committee improvement amendments of 1981. This resolution, introduced by Representative Lott and which I have been pleased to cosponsor, incorporates a series of long overdue revisions to the rules of the House.

As you know, I have been privileged to serve on two congressional reform panels—the Commission on Administrative Review and, more recently, the Select Committee on Committees. Earlier, during the 93d and 94th Congresses, I chaired a Republican task force on congressional reform. These vantage points not only reaffirmed to me the widespread discontent with the committee system, but, more importantly, the prevailing support among the membership for substantive reform of committee procedures. Yet, despite the recommendations presented during the past years, relatively few corrective amendments have been adopted. In light of this disappointing track record, you ought to be commended for your willingness, indeed daring, to undertake a renewed look at committee reform.

I think we all recognize the problems which plague our committee system. The litany is well known: Policy areas so jurisdictionally fragmented as to impede coherent consideration; an addiction to the use of multiple referrals; the proliferation of subcommittees; the multiplicity of members' assignments and the inevitable scheduling conflicts; the dependence on such parliamentary shortcuts as proxy voting and the one-third quorum; and the growth in cost. All are constant sources of complaint.

Yet, I do not believe that lengthy studies of the problem are needed at this point. In fact, the issues associated with committee reforms have almost been studied to death. Most members, in my opinion, would welcome the chance to implement many, if not all, of the reforms contemplated by House Resolution 100. There is a general appreciation that, without the immediate reform of our processes of committee deliberation, this institution may reach the state where it has great difficulty in responding to pressing national needs.

I understand that, at your hearing of July 13, the oversight agenda proposal was discussed at length. Consequently, I would like to direct my remarks to several of the other initiatives contained in this resolution.

1. SUBCOMMITTEES: NUMBERS AND ASSIGNMENTS

The most compelling issue on any reform agenda is the reduction of the number of subcommittees and subcommittee assignments. Although subcommittees foster needed specialization and expand opportunities for participation, I am convinced that many of the problems which this body now confronts—persistent scheduling conflicts, demands for more space and staff, duplication of legislative efforts, and a fragmented policy process—all stem from the unrestrained proliferation of subcommittees during this last decade. In the 96th Congress alone, standing committees of the House spawned more than 150 subcommittees, an increase of almost 50 since 1971. Suffice it to say that Members' time and attention are stretched so thinly as to make rational policymaking well-nigh impossible.

So acute is the problem that the first major recommendation of the Select Committee on Committees in 1979 was to limit each standing committee, except the Committee on Appropriations, to no more than six subcommittees and to limit each Member to no more than five subcommittee assignments. To minimize the disruption, the Select Committee suggested that this requirement be phased in over three Congresses. Unfortunately, this proposal expired in a Democratic Caucus study committee.

Admittedly, the Democratic Caucus, at the beginning of this year, took some tentative steps to impose restrictions on the creation of subcommittees. No committee, except for Appropriations, may now establish more than eight subcommittees. This move, although leading to a modest reduction, affected only a handful of committees; it applied a bandaid where a tourniquet was more appropriate.

Section 4 in House Resolution 100 parallels the earlier Select Committee limits, with one exception—Members would be restricted to a total of four subcommittee assignments. This is a change in which I heartily concur.

2. PARTY RATIOS ON COMMITTEES

Recent debate on committee ratios has been casually dismissed as mere partisan rhetoric. This is simply not the case. Basic tenets of representative government would presume that the overall party division in the House—a division established by the Amercian voter—would be reflected in all aspects of the legislative process. However, since the mid-70s, there has been a growing disparity between the division of partisan strength in the full House and the ratios set for House committees. In this Congress, as an example, the minority party was substantially shortweighted on such key committees as Ways and Means, Budget, and Interior and Insular Affairs. Such inequities in committee assignment blunt the meaningful participation of the minority at the primary level of legislative decision: committees and subcommittees.

I strongly support section 3 of House Resolution 100 which would require that the membership of each standing, select, and conference committee—with the understandable exception of Standards of Official Conduct—reflect the ratio of majority to minority party Members in the full House. This amendment to the rules—which parallels a proposal, House Resolution 711, introduced in 1980 by our colleague, Representative Jim Leach—offers a neutral corrective, one which would insure against any temptation to manipulate ratios for partisan advantage. It is a guideline which should be universally acceptable, particularly in recognition that the majority in one Congress might become the minority in the next.

I would suggest the consideration of one refinement. From the mid-40s to 1974, as we all know, the House Democratic and Republican leadership agreed that seats on the Rules Committee would be allocated on a 2-to-1 ratio, no matter what the overall division in the full House. Obviously, this was in appreciation of your committee's unique role in implementing the legislative agenda of the majority party. It would, therefore, seem desirable if the majority party were granted greater leeway in setting the ratio for the Committee on Rules. However, this in no way is meant to condone the overkill of the "2-to-1 plus 1" standard which has been adhered to since 1975.

3. MAJORITY QUORUM/PROXY VOTING

It is a truism that the strength of our committee system is based on the active participation of a knowledgeable membership. Yet this body has been willing to tolerate two procedual shortcuts—proxy voting and the one-third quorum—which diminish Member participation, encourage absenteeism and, as a result, promote slipshod legislating.

Granted, proxy voting is useful for Members beset by persistent meeting conflicts. But the defects inherent in this practice far outweigh any limited benefits it may convey. Some committees already so believe, and do not allow proxies even though our rules condone their use.

First, proxy voting insures that the haphazard scheduling of subcommittee and committee meetings will not be corrected. Conflicts are easily endured as long as Members can rely on proxies as "stand-ins." Proxies simply sull any motivation to institute a more orderly framework of committee scheduling. But, more importantly, proxies are repugnant to rational policymaking. A Member who habitually resorts to proxies forfeits the opportunity to participate directly in the ebb and flow of debate—he neither contributes to, nor is influenced by, the arguments which may affect the final disposition of the amendments or the matter in question. He cedes his right of decision in a manner which serves neither himself nor his constitutents.

We have never allowed the voting of proxies on the floor. Proxies seem equally ill-advised at the committee level. In 1974, when the House was presented a clear vote on the issue of proxy voting, we adopted an outright ban. I think the membership would be willing to support such a prohibition once again.

Likewise, I endorse section 6 of this resolution which would reestablish the requirement of a majority quorum for the conduct of any business by committees and their subcommittees. As with proxies, the one-third quirum device invites absenteeism, narrowing the base of participation. Too often, the final result is the adoption of amendments in markup which are either poorly crafted or whose ramifications are not well scrutinized—further decreasing the respect for, and the authority of, the committee system.

4. STAFF CEILING

As Members, we all benefit greatly from the dedication and knowledge of our committee staffs. Yet in recent years, the expansion—more accurately, the explosion—in the number of committee staff has prompted serious attention. There is the real danger that our staff, if it grows any larger in size or any greater in influence, may soon—like the Senate staff—be making policy for us. Already scholars and journalists refer to staff as "unelected representatives" or "surrogate Members," with the obvious implication that staff has assumed, or been delegated, policy responsibilities once exclusively within the domain of Members.

But how to crub these increases without jeopardizing the expertise which our committee staff provides? This year, at House Administration, we aggressively reviewed committee funding requests in an attempt to curb the appetite for more and more staff. It is by no means a simple task to reverse this trend, and it will take much effort. But I think that the proposal in House Resolution 100—requiring House Administration to report, and the House to adopt, a resolution establishing an overall ceiling for committee staff prior to any consideration of committee funding resolutions—represents an innovative approach.

In considering the committee staffing issue, I hope you will also have time to review problems associated with "5(d)" personnel. As you know, rule XI, clause 5(d) provides for the hiring of independent subcommittee staff. During House Administration's consideration of the funding resolutions, chairmen and ranking minority members of a number of committees pointedly criticized this clause. Such 5(d) personnel are seen to balkanize committee staffs, undermining unified control. Additionally, the existence of such staff nurtures the autonomy of subcommittees, and perpetuates those subunits which, without independent staff, would otherwise rightfully disappear.

5. MULTIPLE REFERRALS

Last Congress, the Select Committee on Committees devoted considerable attention to the issue of multiple referrals. Although split and sequential referrals apparently pose few parliamentary problems, the testimony of Members underscored much dissatisfaction concerning joint referrals.

Too often joint referrals were seen to involve substantial duplication of effort. Committees, in a joint referral, usually held similarly directed, but independently conducted, hearings and markup. Meaningful coordination between the committees was rare. Repetitious action, delay or death of the legislation was the norm.

Further, joint referrals seem to incite jurisdictional rivalry. I know from my own service on Ways and Means that, on receiving a joint referral, it is sometimes difficult to resist the temptation to intrude on sections in the bill which are properly within another committee's jurisdiction. I expect also that as members of the Rules Committee, you are often obliged to arbitrate the competing demands and the jockeying for position of committees which are requesting a rule on a jointly referred measure.

The central difficulty of joint referrals is that few, if any, limitations or guidelines are attached to the referral. Committees are then left to their own judgment as to the extent of their authority. As a member of the select committee, I supported House Resolution 632 which, although retaining joint referrals, established a more rational framework for their consideration. However, I believe that the approach in House Resolution 100—abolishing joint referrals, but retaining split and sequential referrals to accommodate justifiable jurisdictional claims—may well be less complicated and more practical.

Realistically, the problems associated with joint referrals are indicative of a more serious deficiency—jurisdiction over key issues is hopelessly entangled among the various committees. This breeds stalemate and thwarts timely responses to public concerns. Although the last two attempts to redefine jurisdictions achieved little success, the alternative of no reform is unacceptable for the only result would be a committee structure irrelevant to the priority needs of our society.

There is some skepticism as to whether the House, at this time, would be willing to endorse any major revisions in its committee procedures. Indeed, few of the recommendations presented to the House since the mid-seventies have been approved. I think, to a significant degree, these recommendations failed because they were partisan rather than consensus proposals, or because they were considered under rules which were overly restrictive and precluded the offering of germane amendments. The rules which accompanied the Select Committee on Committees' energy resolution and the Commission on Administrative Review's administrative reorganization package are good cases in point. I would hope that, should House Resolution 100, or portions of it, be reported, consideration would proceed under an open rule. I believe that this would insure the adoption of reforms which would significantly strengthen our committee system.

STATEMENT OF HON. WENDELL BAILEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. WENDELL. Messrs. Cochairmen and members of the subcommittees, as a cosponsor of House Resolution 100, the committee improvement amendments of 1981, I am most pleased to submit this statement on behalf of House Resolution 100 to this joint subcommittee hearing of the House Rules Committee.

House Resolution 100 is a package of seven amendments designed to overhaul our currently unwieldy and unmanageable House committee system by enacting permanent reforms to the House rules. These reforms would reduce the number of subcommittees and Member subcommittee assignments; eliminate one-third quorums, proxy voting, and joint bill referrals; require equitable party ratios on all committees; require formal adoption of committee and House oversight agendas; and provide for the adoption of an overall committee staff ceiling each year.

Taken together, these amendments address the many failures and criticisms of our current committee system and provide a long needed institutional reform of our House committees that will make them more accountable, efficient, and democratic. I strongly support these reforms and urge adoption of them.

One of the most important reforms proposed by House Resolution 100 is adoption of a new House rule which once and for all will end the longstanding practice of shelving House committee assignments to insure what is euphemistically called firm working majorities.

As a new Member of the House and one strongly committed to principle of one person-one vote, I was deeply disturbed to learn of the inequitable procedures used to apportion committee assignments among the majority and minority parties in this House. Current House committee apportionment purely and simply denies minority party Members of their proportionately equal vote on standing committees. Further, it precludes minority Members of a fair opportunity to be elected to those committees. And, more to the point, it robs the American voters of their fundamental right to have the time-honored—and judicially mandated—principle of one person-one vote prevail in the committees of this House.

Earlier this year, in a series of floor statements, I explored the history of committee malapportionment in some depth and detailed what I call the committee ratio racket in order to expose what I believe is nothing less than an anachronistic, unjust, and backdoor means of subverting the will of the voters of this Nation. My statements appear in the Congressional Record on June 16 [p. H 2937], June 17 [p. H 3051-3054], June 18 [p. 3131-3132], and July 14 [p. E 3437-3438].

My research into the committee ratio racket revealed that with the exception of a few notable Congresses, the practice of apportioning committee slots to insure overrepresentation—and hence control—of the party in majority in the House has been the norm, and that since the 94th Congress, committee malapportionment has become even worse. I also made the point that the practice of committee malapportionment is bipartisan. The Republicans evinced the same fervor for committee malapportionment when last in majority in the 83d Congress as the Democrats now do. Indeed, neither party can be proud of its role in the evolution of House committee apportionments.

The issue of committee apportionment has become an unfortunate game of one-upsmanship justified by such weak rationalizations as the mandate of the people and firm working majorities. In reality, committee apportionment has merely become a device to thwart the will of the voters and insure excessive control by the majority party in this house.

Reforms have been discussed many times in the past but their fate has always been to be strangled in the grip of partisan rhetoric. For this reason, the redress of committee inequities can only be resolved once and for all by incorporation of a permanent and equitable formula in the House rules—a formula which insures fair party ratios on all committees regardless of which party is in power.

House Resolution 100 offers such a formula and the time for enactment is now. The Democrats have held the majority in this House since 1955. They currently hold a 51-seat majority and should not fear allowing that majority to express its will through the equality of one person-one vote on our committees.

The reform proposed by House Resolution 100 is fair to all. It mandates that the party memberships on all committees of the House—as well as their subcommittees and subunits—must parallel to the closest degree possible, the party ratio in the House as a whole. Thus, if the House has 261 Democrats and 174 Republicans—a 60 percent to 40 percent division—the committees and their subcommittees would be required to adhere to this 3 to 2 ratio. The only exception would be the nonpartisan Ethics Committee which would retain its current 50-50 ratio. House Resolution 100 further recognizes that traditional committee sizes might not be easily divisible. The new rules, therefore, would provide that a committee or subcommittee could be increased by one seat if a more accurate ratio would result. Finally, House Resolution 100 would also insure majority party control by always guaranteeing the majority party a one vote margin on all committees and subcommittees, no matter how narrow the margin of the parties in the House.

House Resolution 100 is a fair and just proposal to rid this House once and for all of the committee ratio racket. The game as it now stands invokes invidious discrimination among the Members of this House, and for the American public, represents a regrettable debasement of their vote and will. This country deserves better.

Mr. MOAKLEY. The subcommittees stand adjourned.

[Whereupon, at 3:30 p.m. the joint subcommittee was adjourned.]

APPENDIX

SUNSET LEGISLATION: A SELECTIVE BIBLIOGRAPHY

Foreword

This bibliography is a compilation of materials on the subject of sunset legislation from 1976 to the present. It is a revision and update of a bibliography published in A Compilation of State Sunset Statutes with Background Information on State Sunset Laws, a 1981 staff report from the Subcommittee on the Legislative Process of the House Committee on Rules, cited herein. The focus is on state sunset legislation and a variety of state government publications are included. However, this work does not represent a comprehensive collection of state government reports on sunset legislation. For perspective and comparison, the bibliography includes a section on general and Federal materials. Congressional publications are included separately.

Most of the citations are annotated and have been chosen from the computerized bibliographic data base created and maintained by the Library Services Division of the Congressional Research Service. A number of citations were selected from the card catalog and the computerized catalog to the collections of the Library of Congress. The Public Affairs Information Service index was also consulted to assure a broad coverage of the subject area.

Call numbers are provided for citations to items in the collections of the Library of Congress. Those items located in the Law Library are designated "Law" and items found in the Newspaper and Current Periodicals collection are designated "Newsp." All journal articles are provided with the call number of the bound volumes of the journal regardless of whether the issues cited were bound at the time of this writing.

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Sherry B. Shapiro
Senior Bibliographer
Library Services Division
November 15, 1982

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SUNSET LEGISLATION: A SELECTIVE BIBLIOGRAPHY

STATE SUNSET LEGISLATION

Adams, Bruce. Guidelines for sunset. State government, v. 49, summer 1976: 139. JK2403.S7, v. 49

The state issues coordinator for Common Cause outlines ten principles set forth by Common Cause for the development of sunset laws.

Alaska. Legislature. House of Representatives. Committee on Commerce. Interim report, sunset in Alaska, 1979-1980. Juneau, 1980. 233 p. KFA1211.82.C65 1980

American Institute of Certified Public Accountants. Committee on State Legislation. Sunset handbook: a guide to the sunset review process. New York, c1978. 1 v. KF4943.Z95A47

This continuously updated loose leaf guide, which is geared to accountants' needs, contains information about state sunset laws. It includes "case histories of sunset review of accountancy boards" in several states.

Azama, Calvin. Sunset, the concept and its experience. Honolulu, Hawaii, Legislative Reference Bureau, 1978. 107 p. KFH421.5.S95A98

This work discusses the application of the sunset concept to state agencies in Hawaii and also examines the experiences of other states.

Berry, Frances Stokes. The states' occupational licensing debate: sunset review means a closer look at the need for state regulation. State government news, v. 25, May 1982: 10-14. JK2403.S75, v. 25

This article examines occupations regulated in the states and the operation of state review boards, and it considers the future of such review activities.

California. Legislature. Joint Budget Committee. A review of the sunset concept and possible alternatives for California: pursuant to resolution chapter 24 (SCR 3) 1977-78. Regular session. Sacramento, 1977. 1 v. (various pagings)

"This report is the result of SCR 3 of 1977 which directed the Legislative Analyst to review the Sunset concept to evaluate its feasibility and potential for improving the decision-making process of the California legislature." It analyzes "the possible value of a sunset process to the California Legislature, . . . discuss[es] alternatives to sunset that could enhance legislative oversight of state programs and agencies, and . . . illustrate[s] how a sunset review process might work in California, what it would cost, and how it would affect existing oversight activities of the Legislature."

Cannon, Joe B. Sunset and the state bar. Texas bar journal, v. 41, Oct. 1978: 807-809, 811-816, 818-821, 824-832, 834-840, 842-852, 856-864, 866-871. K24.E9, v. 41

This article considers how the Texas Sunset Act will affect the state bar of Texas. "Because the State Bar was created as an agency of the judicial department of state government by the legislature, it was eligible for inclusion in the Sunset review process." The article reprints the State Sunset Act and includes a discussion of its operation.

Capozzola, John M., and Eugene Garaventa. States analyze sunset laws. National civic review, v. 70, Dec. 1981: 612-616. JS39.N3, v. 70

"In the last five years, sunset legislation has been considered by all states and enacted in 35. The key provision of sunset legislation is the automatic termination of a board, commission or agency unless reauthorized or reestablished by the legislature. As part of the termination or reauthorization process, legislative or executive branch agencies usually review activities or evaluate programs." The article evaluates the effectiveness of such legislation and suggests changes in the sunset review process.

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Cover title: Recommendations for 1980, Committee on State Affairs: sunset review, election laws.

Common Cause. The status of sunset in the states: a Common Cause report. [Washington] 1982. 151 p. KF4943.Z95C65 1982

"Sunset legislation--which requires the periodic review of state agencies under the threat of automatic termination unless affirmatively recreated by law--has triggered state governments' interest in legislative oversight and enhanced their ability to conduct it. Since the enactment of the first Sunset law in Colorado in 1976, 35 states have passed Sunset laws."

Connecticut. General Assembly. Office of Legislative Research. Sunset legislation: conference report. Hartford, 1977. 7 l. (OLR selected report 77-65)

This report presents background information about the sunset concept in government, discusses how sunset has been implemented in Colorado and other states, and outlines "points to be considered in drafting a sunset bill."

Cox, Michael P. Application of "sunset" principles to state judicial functions. Oklahoma law review, v. 33, spring 1980: 273-323; summer: 459-519; fall: 681-736. Law

Series of articles surveys the desirability and practicality of applying periodic sunset review to the appointive powers of state judges, to their service ex officio or otherwise on various boards, committees, and commissions and in nonjudicial positions, and to their fact-finding and ministerial responsibilities.

Craft, Ralph. Legislative oversight in the states. GAO review, v. 14, fall 1979: 22-26. HJ9701.G3, v. 14

This article describes legislative oversight activities in the states and evaluates their impact on state politics and government.

Dawson, Ralph G. Sunset review of the State Board of Private Detectives Licensing to the Vermont General Assembly. Montpelier, Vt., Vermont Legislative Council, 1979. 100 p. HV8096.V5D38

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This report reviews the application of sunset laws in other states and offers specific recommendations for its application in Utah.

Ellyson, Robert C., and William H. Van Rensselaer. Sunset--is the profession ready for it? Journal of accountancy, v. 149, June 1980: 52-54, 56, 58-61. HF5601.J7, v. 149

This article examines the impact of sunset provisions on state boards of accounting and the accounting profession. "If the accounting profession is not alert to sunset, the present system of state licensing may suffer erosion and the profession's ability to influence its own destiny may be jeopardized."

Florida. Legislature. Senate. Governmental Operations Committee. Manual of instruction for the implementation of the Regulatory Reform Act of 1976 (Chapter 76-168). [Tallahassee] 1977. 38 p.

This report presents general information about the Regulatory Reform Act in Florida, details methods of conducting the review, and discusses the impact of this legislation on Florida regulatory agencies.

Georgia. General Assembly. House of Representatives. State Planning and Community Affairs Committee. Report of the House State Planning and Community Affairs Committee and the Senate Industry, Labor, and Tourism Committee on sunset legislation. Atlanta, General Assembly [1979] 42 p. KFJ11.82.P55 1979

Gregson, Ronald E. Sunset in Colorado: the second round. State government, v. 53, spring 1980: 58-62. JK2403.S7, v. 53

This article examines Colorado's second biennial review of regulatory agencies under that state's sunset law. It discusses the relationship between the executive and legislative branches of government in that state regarding sunset evaluation and considers the impact of the legislation. "The second round of sunset in Colorado was marked by fewer agency terminations than resulted from the first round, but statutory analyses and revisions were much more comprehensive in 1979 than in 1977."

Heath, Milton S., Jr. The North Carolina sunset law. Popular government, v. 44, winter 1979: 45-49. JK4101.P6, v. 44

Kopel, Gerald H. Sunset in the West. State government, v. 49, summer 1976: 138-158. JK2403.S7, v. 49

A Colorado State representative discusses the way sunset legislation, has contributed to legislative oversight of Colorado's regulatory agencies.

Licata, Tony. Limited lifespan for state agencies? Sunset laws. Illinois issues, v. 3, Feb. 1977: 21-23.

"Sunset laws put state regulatory agencies on the line for periodic review--and automatic extinction unless the legislature decides the agency is worth saving. Reflecting a general consensus that government should work better and cost less, the concept has the cautious approval of Illinois Gov. James R. Thompson and is already being tried in Colorado. The catch is that sunset reform could create more red tape and new political trade-offs."

Lunch, Milton F. Getting ready for sunset. Professional engineer, v. 49, Mar. 1979: 34-35. TA1.A277, v. 49

The author discusses the sunset concept which, in some instances, calls for the automatic termination of "the engineering registration board, along with other occupational and professional licensing boards." He considers the implications of these potential terminations on professional engineers.

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March, Michael S. Colorado's sunset review 1976-1981: an experiment in state regulatory reform. Policy studies review, v. 1, Feb. 1982: 491-502. H97.P66, v. 1

Reviews the last five years of sunset review in Colorado and characterizes it as a "trial and error process punctuated with some mistakes, but a process which eventually became cost-effective."

----- Sunset review in Colorado: lessons from the first round. National civic review, v. 67, Mar. 1978: 130-135. JS39.N3, v. 67

"Colorado is the acknowledged leader in the Sunset review movement. The review process focuses on the basic authorization statutes and total functioning of an agency. It has been largely a legislative show, but it needs executive input. The state has terminated 39 regulator boards and agencies in a pilot program limited to one department. The University of Colorado has provided analytic assistance."

----- Sunset review, the Colorado program: statutes, organization, methodology, evaluation criteria, and results; final project report. Boulder, University of Colorado, Bureau of Governmental Research and Services, 1977. 113 p.

This report summarizes "the highlights of the Colorado Sunset effort from the enactment of the Law through approximately the first year and a half of the pilot program (through November 15, 1977). Among the topics discussed are a summary of the program, the history of its development, the evaluation criteria, the research methodology used in Colorado, the results of the Colorado experiment to date, and observations on possible improvements in the Sunset process based both on the experience so far in Colorado and an awareness of efforts in other states."

Margolis, Edwin, Richard Hurley, and William Berry. Sunset laws; a critical analysis & a new approach. Albany, N.Y., Temporary State Commission on Management and Productivity in the Public Sector, 1977. 77 l.

The authors discuss the sunset concept as it has been enacted in several states and examine specific effects on New York State government if sunset legislation were to be enacted in that state.

Martin, Donald L. Will the sun set on occupational licensing? State government, v. 53, spring 1980: 63-67. JK2403.S7, v. 53

"Prominent among government activities subject to sunset legislation are regulatory agencies and, in particular, occupational licensing boards. The purpose of this article is to discuss the probable effects of sunset laws on the fate of occupational licensing. . . . [It] examines the limited experience states have had, to date, with sunset and licensing and analyzes the prospective costs and rewards legislators face in deciding whether to permit termination of occupational licensing boards."

Michigan. Legislature. House. Fiscal Agency. Legislative Program Effectiveness Unit. A sunset law in Michigan. Lansing, Mich., 1976. 22 p.

"LPER Program Memorandum no. 4"

This report addresses the following questions: what is the problem addressed by sunset, what is the role of the legislature, what should a sunset law cover, what will it take to administer sunset, what is the role of evaluation in sunset, and what are the mechanics of sunset. These questions are applied to Michigan state needs.

Minnesota. Legislature. Senate Counsel. Sunset legislation: background and issues. St. Paul, 1976. 8 p.

This report examines the experiences with sunset in other states and considers the application of this concept to Minnesota.

National Conference of State Legislatures. Sunset revisited. State legislative report, 1980: whole issue.

This newsletter issue reviews general state sunset activities, presents information on the Florida and Colorado experiences, and includes a chart on sunset activities in the states.

New York (State). Legislature. Senate. Research Service. Sunset . . . it's not all rosy. Albany, 1977. 88 p.

This work discusses the New York State experience with sunset and suggests that this concept may not be the best response to the need to evaluate governmental programs. Alternative approaches are presented.

Ohio. Legislative Budget Office. Zero base budgeting and sunset laws. Columbus, Ohio, 1976. [11] p.

This report discusses the status of sunset laws in several states, reviews Federal activities in this area, and discusses legislation proposed in Ohio.

Oklahoma sunset law: planning and implementation. [Oklahoma City] 1977. [9] p.

This report outlines the steps, techniques, and procedures for program review in Oklahoma.

Peirce, Neal R., and Jerry Hagstrom. Is it time for the sun to set on some state sunset proposals? National journal, v. 9, June 18, 1977: 937-939. JK1.N28, v. 9

"Sunset legislation, which requires periodic review of government programs and agencies, has become one of the most popular ideas in state government--as well as in Congress--this year. But Common Cause, which helped push through the first bill in Colorado last year, fears that concept has become so popular that states may pass irresponsible sunset laws."

Phillips, Diana Buder. Sunset 1979. Austin, Tex., House Study Group, Texas House of Representatives, 1979. 5, [15] p. JK4838 1979.P48

Sunset report no. 8.

Price, Dan R. Sunset legislation in the United States. Baylor law review, v. 30, summer 1978: 401-462. Law

This article analyzes "the background, genesis and major concepts of Sunset legislation, presents ... the major provisions of Sunset laws, examines the results of the first Sunset review processes, and offers suggestions for better implementation of Sunset legislation. It includes a Model Sunset Evaluation Plan and a Sunset Legislation Checklist."

----- Sunset legislation in the United States. Austin, State Bar of Texas, 1977. 162 p. KF4943.Z95P73

The author analyzes state sunset legislation in the U.S., focusing on the new Texas Sunset Act.

Public administration forum--sunset laws: a passing fad or major development. Midwest review of public administration, v. 11, Mar. 1977: 61-71. JK1.M5, v. 11

This symposium, edited by James W. Drury, focuses on state experiences.

Partial contents.--Sunset in Colorado, by M. S. March.--Sunset laws viewed from Kansas, by J. W. Bibb.--Not until the sun sets on preponderant ignorance, by E. H. Kline.--Will sunset only bring darkness, by R. P. Knuth.

Reynolds, W. Jeff. Evaluating the performance of state agencies: sunset review in Tennessee. Governmental finance, v. 9, Dec. 1980: 21-24. HJ9103.M782, v. 9

Roederer, Doug, and Patsy Palmer. Sunset: expectation and experience. Lexington, Ky., Council of State Governments, 1981. 15 p. JS308.C6 no. 669/KF4943

"RM699"

"This report . . . first deals with the conduct of the sunset review and the variables in the process. Items covered include the selection of agencies to be reviewed, the schedule of review, the review and decision-making apparatus and process, staffing and budget variables, and the role of various parties potentially interested in the process. . . . [It then] summarizes the observations . . . regarding the impact of sunset legislation."

Rosenthal, Alan. Legislative behavior and legislative oversight. Legislative studies quarterly, v. 6, Feb. 1981: 115-131. JF501.L42, v. 6

"This article explores contrasting approaches to the study of oversight by state legislatures. A focus on individual orientations and behavior, which has dominated such study, reveals attempts by legislators to maximize credit, achieve concrete results, and avoid making additional trouble for themselves. It indicates that little oversight is performed. By contrast, a focus on institutional activity--primarily by special commissions and committees and their staffs--indicates that substantially more oversight is performed. The apparent contradication is reconciled by taking into account institutional incentives as they influence the motivations of a minority of members. The major problem is an analytical one, in which an unwarranted 'aggregative leap' is made from the individual on the one hand to the institution on the other."

----- Legislative performance in the States. New York, Free Press, 1974. 215 p. JK2495.R67

Schick, Allen, and Robert Keith. Zero-base budgeting in the states. Lexington, Ky., Council of State Governments [1976] 28 p. JS308.C6 no. 593/HJ2053.A1

Contents.--Criteria for ZBB practices.--ZBB applications in the states.--Experiences in the ZBB states.--Experiences and intentions in non-ZBB states.--ZBB and the legislative process.--ZBB and PPB.--ZBB methods in selected states.

Report based on returns from a survey of zero-base budgeting practices in state governments undertaken by the National Association of State Budget Officers in cooperation with the Congressional Research Service.

Sherman, Betsy. Making government work: a Common Cause report on state Sunset activity. [Washington] Common Cause, 1978. 123 p. KF4943.Z9553

This report explains "the Sunset concept and reviews state Sunset action and implementation over the last three years."

The Sunset phenomenon: papers of a forum on legislative oversight, July 25, 1977. Edited by Kirk Jonas. Richmond, Va., Joint Legislative Audit and Review Commission [1978] 89 p. KFV2821.5.S95S96

Sunset, zero-base budgeting, legislative program evaluation; transcripts of conference proceedings, May 5-6, 1977. [Richmond] Joint Legislative Audit and Review Commission, 1977. 84 p. HJ2052.S9

At head of cover title: The Virginia General Assembly.

"The first Legislative Audit and Review Commission sponsored . . . the conference . . . held in Roanoke."

Contents.--Sunset: order out of chaos? by J. Blanchard.--Keynote address: putting it all together, by A. Schick.--Sunset: a workable approach, by B. Adams.--Is there life after sunset? by B. Shimberg. --Introducing zero-base budgeting, by G. Taylor.--Sunset and legislative evaluation, by B. Spitz.--Evaluation: can it survive sunset? by L. Adams. --Directions for legislative oversight, by R. Pethtel.

Texas. Joint Advisory Committee on Government Operations. Summary of the final report to the Governor of Texas and Members of the Sixty-fifth Texas Legislature. [Austin] 1977. 74 p. JK4838 1977.T44 1977a

The Joint Advisory Committee on Government Operations was established as a means of addressing the problem of rapid growth at the state level in Texas. "The Joint Advisory Committee on Government Operations, established by Senate Bill 319 of the Sixty-fourth Legislature, was directed to: examine and evaluate the organization and methods of operation of state government; develop proposals for improving the structure of state government; recommend policies to minimize creation of new departments and agencies and to control growth of existing departments; and recommend suspension of programs that duplicate and exceed in cost those services offered by private business. The committee was instructed to report its findings and recommendations to the Sixty-fifth Legislature."

Texas. Sunset Advisory Commission. Final report to the Governor of Texas and members of the Sixty-sixth Texas Legislature. [Austin] 1978. 221 p. JK4871.T49 1978

U.S. Congress. House. Committee on Rules. Subcommittee on the Legislative Process. A compilation of state sunset statutes with background information on state sunset laws; a staff report. Washington, U.S. Govt. Print. Off., 1981. 535 p. KF4943.A4 1981

At head of title: 97th Congress, 1st session. Subcommittee print.

Wisconsin. Legislative Reference Bureau. "Sunset" legislation. Madison, 1977. 34 p. (Its Research bulletin 77-RB-1) KFW2420.L4 no. 77-1/KFW2821.5

Prepared by Dick Pazen, the report examines sunset experiences in Wisconsin and several other states as well as at the Federal level.

GENERAL AND FEDERAL SUNSET LEGISLATION: ARTICLES AND BOOKS

Adams, Bruce. Sunset: a proposal for accountable government. Administrative law review, v. 28, summer 1976: 511-542. Law

Common Cause staff member reviews Federal and state sunset review proposals, setting forth "ten basic principles that must be in any workable and responsible Sunset law."

Adams, Bruce, and Betsy Sherman. Sunset implementation: a positive partnership to make government work. Public administration review, v. 38, Jan.-Feb. 1978: 78-81. JK1.P85, v. 38

This article overviews sunset proposals on the state and Federal levels, underscoring the argument "that meaningful evaluation is critical to achieving the goals of Sunset."

American Enterprise Institute for Public Policy Research. Proposals for ranking the effectiveness of government programs. Washington, 1980. 18 p. (Its Legislative analysis, 96th Cong., no. 14) KF225.Z9A43

This work discusses recent government efforts to eliminate or reduce government programs. Some of these efforts include planning, programming, and budgeting (PPB), and zero base budgeting. "A relatively new proposal, which would complement such procedures by spotlighting particularly ineffective programs, is the Government Accountability Act. This analysis ... examines the terms of that proposal and the principal arguments for and against its enactment."

----- Zero-base budgeting and sunset legislation. Washington, 1978. 38 p. (Its Legislative analysis, 95th Cong., no. 17) KF6227.A4

Contents.--Background.--Zero-base budgeting bills.--White House ZBB initiative.--Sunset bills.--Arguments for ZBB.--Arguments against ZBB.--Arguments for sunset.--Arguments against sunset.

Bardach, Eugene. Policy termination as a political process. Policy sciences, v. 7, June 1976: 123-131. H1.P7, v. 7

Behn, Robert D. The false dawn of the sunset laws. Public interest, no. 49, fall 1977: 103-118. H1.P86

The author maintains that Federal sunset legislation would neither replace the assumption that programs should continue with one that they should terminate, result in improved program evaluation by Congress, nor make the threat of termination of a program real.

Birchfield, Martha J., and Wallis D. Hoffsis. Sunset legislation: an annotated bibliography. Monticello, Ill., Vance Bibliographies, 1980. 14 p. (Public administration series: bibliography P-437) KF4943.A1B57

"Sunset legislation provides for the systematic evaluation of government agencies and programs to determine whether each agency or program can justify its contribution beyond scheduled termination. Several federal sunset acts have been proposed but none has been passed. At the state level, . . . [as of 1980] 31 states have passed sunset laws. Key lobbying efforts for sunset laws have been carried out by Common Cause. The literature on sunset legislation consists primarily of government reports and articles in social science and legal periodicals." This bibliography includes references to state and Federal sunset efforts.

Borklund, C. W. Will the sun set or rise on OFPP in August. Government executive, v. 11, Apr. 1979: 15-16, 18, 20. JK1.G58, v. 11

"The Office of Federal Procurement Policy is the only Executive Agency currently operating under a five-year 'Sunset' law, due to run out in August [1979]." This article examines the experience of the OFPP with sunset.

CC put the new Congress on the record. In common, v. 8, winter 1977: 7-31. JK1.I63, v. 8

This work reports on the findings of a 1976 Common Cause survey of Congressional candidates. Candidates were asked to fill out a questionnaire which surveyed their attitudes on such subjects as conflict of interest regulations, sunset legislation, public financing of congressional elections, and the creation of a single House oversight committee for intelligence activities.

Clark, Timothy B., Marvin H. Kosters, and James C. Miller, editors. Reforming regulation. Washington, American Enterprise Institute for Public Policy Research, 1980 162 p. (AEI symposia, 80D) KF5407.A5R42

Contents.--Perspectives on regulation and its reform.--Sunset review. --The regulatory budget.--The case-by-case approach to regulatory reform. --Cost-benefit analysis of social regulation.--The Administration's regulatory reform initiatives.--Overview and summary.

Cohen, Richard E. Sunset proposals in Congress--sinking below the horizon? National journal, v. 11, Nov. 24, 1979: 1978-1981. JK1.N28, v. 11

"When 'sunset' legislation was introduced in 1976, it entailed the automatic extinction of federal programs every four years unless Congress reviewed them and explicitly reauthorized them. As a symbol of congressional efforts to trim the size of government, sunset gained broad support--until some Members of Congress grew aware of the workload it would impose. Now the House and the Senate are considering weakened versions, both of which would let the authorizing committees decide which programs should be reviewed. Only the Senate bill would provide for the automatic death of programs that Congress did not reauthorize after reviewing them."

----- Will the 96th become the 'oversight Congress'? National journal, v. 11, Jan. 13, 1979: 44-49. JK1.N28, v. 11

"This is the year that congressional oversight may come into its own. For whatever the reason--the 'taxpayers revolt,' the high cost of government, suspicion of government regulators or disenchantment with social programs--Members of Congress are scrambling to review the programs, policies and actions of the executive branch. Whether the glamour wears off or the political rewards eventually appear less lucrative remains to be seen, but for now, the 96th Congress seems ready to adopt the title of the Oversight Congress."

Controversy over proposed "sunset" legislation. Congressional digest, v. 59, Mar. 1980: whole issue. JK1.C15, v. 59

Contents.--Action in the Congress.--Programs affected.--Program reexamination.--Regulatory impact.--Pros & cons.

Crane, Edgar G., Jr. Legislative review of Government programs: tools for accountability. New York, Praeger, 1977. 289 p. (Praeger Special Studies in U.S. economic, social, and political issues) JK2488.C68 1977

Davis, Lewis Anthony. Review procedures and public accountability in sunset legislation: an analysis and proposal for reform. Administrative review, v. 33, fall 1981: 393-413. Law

"Sunset laws have not achieved their promise because an effective sunset review depends upon the availability of articulated program objectives in light of which to evaluate performance, but sunset laws have not required that enabling legislation set forth any such objectives. This article demonstrates the need to modify sunset laws and suggests an alternative solution to help achieve the desired outcomes. . . . [The author] discusses the evidence which demonstrates that state sunset legislation has failed to achieve its goal; . . . analyzes the key problems affecting these efforts; . . . examines recent federally proposed sunset legislation and highlights its inadequacies; . . . contains a prescription for a model sunset bill; [and] concludes with a proposed model sunset bill."

Deck, Glenn E. Sunset laws and performance audits: a partnership for improving government. GAO review, v. 16, summer 1981: 47-49. HJ9701.G3, v. 16

This article "deals with State legislatures' experience in working with sunset legislation. The Congress is considering similar legislation which would apply to some 1,200 Federal programs. The key provision of the Federal sunset legislation would require an automatic review of Federal spending programs over a 10-year cycle. Title II of the proposed legislation would require GAO, with the assistance of the Congressional Budget Office, to develop an inventory of programs to guide the sunset schedule."

Delfico, Joseph F. Proposed sunset and zero-base legislation. GAO review, v. 11 [i.e. v. 12] winter 1977: 34-40. HJ9701.G3, v. 12

This article considers how such legislative proposals will work and examines their policy implications.

Dworak, Robert J. Zero-base budgeting and sunset laws: do they go together? National civic review, v. 67, Mar. 1978: 118-122, 129.
JS39.N3, v. 67

"Zero-Base and Sunset have captured the imaginations of politicians, bureaucrats and the public. The concepts seem to epitomize the attitude toward government--that the increase in the scale of government operations and the number of employees should be cut back. Although the concepts are different, they can be used together as compatible systems."

Educating policymakers for evaluation : legislation. Edited by Franklin M. Zweig; foreword by Harrison A. Williams, Jr. Beverly Hills, Sage Publications published in cooperation with the Evaluation Research Society, c1981. 160 p. (Sage research progress series in evaluation, v. 9)
JK1001.E34

Fields, Mary Jo. Sunset legislation. University of Virginia newsletter, v. 53, Apr. 1977: 1-4.

The author examines the background and concept of sunset legislation. She discusses its status at the national and state levels and includes a discussion of the utilization of zero-base budgeting techniques in the review and evaluation process.

Forum on MBO. Bureaucrat, v. 6, fall 1977: 3-79. JQ3092.Z1B86, v. 6

Series of articles discusses the use of management by objectives in several Federal programs at the state government level and also evaluates the effectiveness of sunset legislation.

Contents.--Applying MBO to the public sector, by M. Badawy.--Bureaucratic responsibility in the Federal energy administration, by R. Rycroft.--Organizing the poor: reexamining the OEO experiemce, by W. Kelso. --Sustaining PPBS in state government: Pennsylvania's second generation adaptations, by J. Skok.--Evaluating sunset: what will it mean? by S. Charnovitz.

Gaine, John G. The 1978 sunset review of the CFTC: analysis and comment. Record of the Association of the Bar of the City of New York, v. 34, Apr. 1979: 290-299.
Law

The general counsel of the Commodity Futures Trading Commission approves of the manner in which Congress decided to reauthorize his agency in 1978.

Gardner, Judy. Doubts over 'sunset' bill fail to deter backers of concept. Congressional quarterly weekly report, v. 34, Nov. 27, 1976: 3255-3258.
JK1.C15, v. 34

Discusses provisions of the sunset legislation which died at the end of the 94th Congress and speculates that similar legislation will be introduced again during the next Congress. Explains how the legislation will operate and describes Carter's use of zero-based budgeting in Georgia.

Green, Mark, and Andrew Feinstein. The trouble with sunset laws. Washington post, Oct 23, 1977: C8.
Newsp.

Havemann, Joel, and Richard E. Cohen. Zero-base budgeting and sunset legislation. National journal, v. 9, Apr. 2, 1977: 514-520. JK1.N28, v. 9

Two articles discuss the combined impact of zero-base budgeting and sunset legislation on Federal agency programs. Some agencies are enthusiastic about the proposed new budgeting program, but others fear drastic cuts in their programs. "A bill that would require automatic and periodic reviews of most federal programs as a way of determining whether they should be allowed to continue is working its way through Congress as a counterpart to the Administration's new zero-base budgeting process. The most controversial provision is one that would apply the same review to much of the tax code."

Jones, Reginald H. Sunset legislation. Tax review, v. 39, Dec. 1978: 51-54. HJ2360.T35, v. 39

"After a brief survey of the recent legislative history of the 'sunset' concept, . . . [the author, who is chairman and chief Executive Officer of General Electric Company] argues that sunset for tax legislation would represent bad tax policy and would conflict with a number of important philosophical notions basic to the U.S. economic and political system."

Kaufman, Herbert. Are government organizations immortal? Washington, Brookings Institution, 1976. 79 p. JK21.K37

This work examines the longevity of government agencies, considering sunset proposals by implication only.

Klay, William Earle. A legislative tool to encourage agency efficiency. Public productivity review, v. 3, spring 1978: 23-31. JF1411.P8, v. 3

"Raises new insights into increasing efficiency of government agencies. Strategy is based on the frequently overlooked fact that the legislature, with its final authority over appropriations, is the key institution which encourages or discourages true cost consciousness."

League of Women Voters of the United States. Education Fund. Perspectives on sunset. [Washington] 1977. 4 p.

Discusses provisions of S. 2, the proposed Sunset Act, which was introduced in the 95th Congress and discusses other legislative sunset proposals introduced during the current Congress.

Leone, Richard C. The 'sunset proposal': how to ride herd on the budget. Nation, v. 222, May 22, 1976: 625-627. AP2.N2, v. 222

"The essence of the proposal is that nearly all federal programs should expire after four years, unless re-enacted by the Congress after thorough consideration by both the executive and the legislative branches. The bill also establishes a zero-base budgeting system for the federal government, similar to that currently in use in several states."

Licata, Anthony R. Zero-base sunset review. Harvard journal on legislation, v. 14, Apr. 1977: 505-558. Law

Comment examines the concept of zero-base budgeting and the sunset proposal. Contrasts legislation introduced in the 94th and 95th Congresses, and critiques S. 2, which is currently under scrutiny in the 95th Congress. Offers a model Federal Sunset Act, which combines sunset and zero-base budgeting.

McIntyre, James T., Jr., and Murray Comarow. Zero-base budgeting. Bureaucrat, v. 7, summer 1978: 40-44. JQ3092.Z1B86, v. 7

In this interview, the director of the Office of Management and Budget discusses the use of zero-base budgeting (ZBB) in the government and private sector. Offers some comparisons between the Federal and state zero-base budgeting process, and discusses zero-base budgeting as a program evaluation tool for the reauthorization process.

Middlemist, R. Dennis, Charles R. Greer, and Michael A. Hitt. Evaluating the public organization. Atlanta economic review, v. 28, Mar.-Apr. 1978: 54-58. HC108.A75A8, v. 28

The authors present a method for the internal evaluation of agency effectiveness, which may be used in conjunction with the sunset approach to provide effective evaluation of public sector programs.

Mitzman, Barry. Sunset laws: why they aren't working. Washington monthly, v. 11, June 1979: 48-51. E838.W37, v. 11

This article evaluates the effectiveness of sunset legislation, contending that these laws are doing little to reform or abolish agencies.

Muskie, Edmund S. Sunset: new sunlight on government. Trial magazine, v. 13, Feb. 1977: 47-49. Law

A U.S. Senator discusses the bill he introduced during the 94th Congress, which would "establish a process through which Congress is forced to apply greater scrutiny to the fruits of its legislative work. The bill would accomplish this by terminating every single federal program--with only a handful of exceptions--and every single federal tax expenditure every five years." The legislation would, in essence, "lend discipline and cohesiveness to the way in which the federal government handles the American taxpayers' money."

National Conference on Federal Regulation: roads to reform, Washington, D. C., 1979. Proceedings. Administrative law review, v. 32, spring 1980: whole issue. Law

This conference addressed such issues as regulatory reform, the effectiveness of sunset review, the need for improving administrative procedure, and whether or not attorneys practicing for the government should be allowed to enter a private practice which is involved with the government agency for which the attorney once worked.

Ogul, Morris S. Congress oversees the bureaucracy: studies in legislative supervision. Pittsburgh, University of Pittsburgh Press, 1976. 231 p. JK585.O48

Organizational decline and cutback management; a symposium. Public administration review, v. 38, July-Aug. 1978: 315-357. JK1.P85, v. 38

Contents.--Organizational decline and cutback management, by C. Levine.--Organizational responses to municipal budget decreases, by A. Glassberg.--Closing a government facility, by R. Behn.--Termination: hard choices--harder questions, by G. Brewer.--The management of universities of constant or decreasing size, by R. Cyert.--Deregulation as a process of organizational reduction, by B. Mitnick.

Parris, Judith H. Sunset on the Potomac. Bureaucrat, v. 10, summer 1981: 45-48. JQ3092.Z1B86, v. 10

This article examines congressional efforts in the area of sunset legislation and evaluates the impact of sunset legislation on Federal agencies and programs.

Quitmeyer, John M. Sunset legislation: spotlighting bureaucracy. University of Michigan journal of law reform, v. 11, winter 1978: 269-289. K16.R68, v. 11

Comment suggests that sunset legislation is an "appropriate response" to public concerns about the size of government and expanse of its power. Describes "the deficiencies of current methods by which the legislature reviews activities of the executive branch . . . and examines the provisions of sunset legislation, emphasizing the role of evaluation criteria, and suggests that elaborate quantitative techniques are not crucial for adequate evaluation. Evaluation criteria currently incorporated in various sunset statutes can best be classified according to those which apply to entity functioning and those which evaluate an entity's purpose."

Randall, Ron. What's wrong with sunset laws; 'zero-base' budgeting. Nation, v. 224, Mar. 19, 1977: 331-334. AP2.N2, v. 224

Contends that scheduled reviews and assessments of Federal agencies and their programs as provided by sunset legislation would be an impossible task since the "existing institutions cannot perform evaluations of all government programs at this rigorous level" and that a "bias against social welfare programs would be created."

Regulation of commodity futures trading symposium. Atlanta, Emory University School of Law, 1978. 847-1231 p.

Partial contents.--A new body of law in an era of industry growth, by W. Bagley.--A test of Federal sunset: congressional reauthorization of the Commodity Futures Trading Commission, by M. Young.--Leverage transactions: on creating a regulatory theme, by W. Greenstone.--The regulation of commodity trading advisors, by M. Mitchell.--Reparation proceedings under the Commodity Exchange Act, by J. Rosen.--State enforcement of the Commodity Exchange Act, by R. Lower.

Schick, Allen. Zero-base budgeting and sunset: redundancy or symbiosis? Bureaucrat, v. 6, spring 1977: 12-32. JQ3092.Z1B86, v. 6

This article explains "ZBB and sunset, how they relate to one another, and (in a period of presidential transition) how they might be melded into federal practice."

Shimberg, Benjamin. The sunset approach: the key to regulatory reform? State government, v. 49, summer 1976: 140-147. JK2403.S7, v. 49

This article discusses the sunset proposal for the termination of agencies which are no longer useful or effective. The author contends that the appeal of sunset legislation may lead to disillusionment when it does not provide instant regulatory reform. "The real challenge lies in what comes after the Sunset review--making sure that needed changes are actually carried out and installing procedures to prevent new abuses in the future."

Silberman, Laurence H. If not the best, at least not the worst. Commonsense, v. 1, summer 1978: 18-26.

Asserts that "a method of identifying the least effective government programs could encourage citizens to view all programs as competing against each other for limited resources, making the truly worst programs candidates for termination."

Sunset laws: one more brave idea that's gone awry. U.S. news & world report, v. 84, May 29, 1978: 45-46. JK1.U65, v. 84

U.S. Dept. of Energy. Office of Policy, Planning and Analysis. Sunset review, Department of Energy Organization Act, title X: report to the Congress. Washington [Available from NTIS] 1982. 3 v. HD9502.U525S86 1983

DOE/PE-0040, Feb. 1981.

This study presents a comprehensive review of the Department's programs (energy sources, conservation, energy systems, support, regulation, information, production, power marketing, emergency preparedness, defense, and general science programs), as required by the Act's sunset provisions.

U.S. General Accounting Office. Congressional oversight reform proposals. [Washington] 1978. 85 p.

"PAD-78-73, June 8, 1978"

"This report discusses ways of strengthening the oversight process, particularly the nature of congressional review of broad policy subjects. GAO suggests (1) a requirement that over an 8-year cycle programs and activities be reviewed in policy subject areas designated in biennial concurrent resolutions on oversight, (2) a presumption that any program which is not reviewed during the 8-year cycle should be considered for termination, and (3) a mechanism by which individual programs can be designated for reauthorization which are not now subject to the reauthorization process."

----- Letter concerning comments on the Government Economy and Spending Reform Act of 1976. [Washington] 1976. 9 l.

"PAD-77-28, Dec. 23, 1976"

----- Observations on oversight reform; summary and consolidation of statements to congressional committees. [Washington] 1981. 16 p.

"PAD-81-17, 1981"

This is a summary of GAO statements to Congressional committees during the 96th Congress. GAO positions are "grouped under three main subjects: critical elements that should be part of any comprehensive oversight reform legislation; GAO positions on some specific issues related to oversight reform; and opportunities for better oversight under existing legislation."

U.S. General Accounting Office. Library. Zero based budgeting. [Washington] 1977. 20 p.

"This selective bibliography, covering the past several years, includes books, periodicals, Congressional documents and other government publications on the topic of zero-base budgeting and sunset legislation, with which it is closely associated. An abstract summarizing each item cited is also provided."

U.S. Library of Congress. Congressional Research Service. Sunset and program review legislation: some congressional options. By Judith H. Parris. [Washington] 1979. 40 p.
Report no. 79-152 GOV

----- Sunset laws: establishing systematic oversight procedure. [By] Virginia McMurtry. [Washington, 1976] 11 p. (Issue brief IB76049)
Continuously updated.

Waterfield, Maynard H. Rethinking the sunset concept. Tax review, v. 40, Sept. 1979: 29-32. HJ2360.T35, v. 40
"The important question to be asked about the proposed Sunset Act of 1979, asserts Tax Foundation's Director of Federal Affairs, Maynard H. Waterfield, is what sunset legislation would or would not accomplish if enacted. Reviewing the provisions of the bill and its predecessors, Mr. Waterfield enumerates the oversight powers which Congress already possesses. 'It would appear,' he concludes, 'that the one new thing which sunset provides is the ten-year, five-Congress review-reauthorization schedule.' Mr. Waterfield concludes by asking how effective any sunset law can be, since Congress has failed to use the powers it already has."

White, Anthony G. The management of static and declining public organizations: a selected bibliography. Monticello, Ill., Vance Bibliographies, 1979 [c1978] 8 p. (Public administration series: bibliography P-163)
Z7164.A2W465/JF1411

ZBB. Bureaucrat, v. 6, spring 1977: whole issue. JQ3092.Z1B86, v. 6
Partial contents.--A context for zero-base budgeting, by T. Lynch. --Zero-base budgeting and sunset: redundancy or symbiosis? by A. Schick. --Introduction of zero-base budgeting, by G. Taylor.--Zero-base budgeting: new directions for the bureaucracy? by W. Broadnax.--Zero-based budgeting in Wilmington, Delaware, by D. Singleton, B. Smith, and J. Cleaveland.--The congressional budget process: why it worked this time, by L. Smith.--More about the impact of the Congressional Budget and Impoundment Control Act, by E. Betts, Jr., and R. Miller.

GENERAL AND FEDERAL SUNSET LEGISLATION: CONGRESSIONAL PUBLICATIONS

U.S. Congress. House. Committee on Government Operations. Legislation and National Security Subcommittee. "Sunset" legislation. Hearing, 95th Congress, 1st session, on H.R. 1756 and related bills. Oct. 17, 1977. Washington, U.S. Govt. Print. Off., 1977. 69 p. KF27.G6676 1977g
"To require authorizations of new budget authority for government programs at least every 5 years, to establish a procedure for zero-base review of government programs every 5 years, and for other purposes."

U.S. Congress. House. Committee on Rules. Subcommittee on the Legislative Process. Sunset, sunrise, and related measures. Hearings, 96th Congress 1st session on H.R. 2, H.R. 65, and H.R. 8585. Washington, U.S. Govt. Print. Off., 1980. 2 v. (1234 p.) KF27.R873 1979
Hearings held in Washington, D.C., Apr. 4-Dec. 5, 1979, and Columbia, S.C., Nov. 12, 1979.

U.S. Congress. House. Committee on Rules. Subcommittee on the Rules and Organization of the House. Hearings on Congressional procedures, 95th Congress, 2d session, on various bills. Washington, U.S. Govt. Print. Off., 1979. 919 p. KF27.R874 1978

U.S. Congress. House. Committee on Public Works and Transportation. Subcommittee on Aviation. Effects of airline deregulation; and legislation to advance the date for sunset of the Civil Aeronautics Board. Hearings, 97th Congress, 1st session, on H.R. 4065. July 9-16, 1981. Washington, U.S. Govt. Print. Off., 1981. 934 p. KF27.P89624 1981c

"97-22"

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S. 2 requires "authorizations of new budget authority for government programs at least every ten years, . . . [and provides] for review of government programs every ten years."

----- Sunset Act of 1979. Hearings, 96th Congress, 1st session, on S. 2 and S. 1304. June 7-Sept. 13, 1979. Washington, U.S. Govt. Print. Off., 1979. 888 p. KF26.G67 1979aa

"S. 2, to require authorizations of new budget authority for government programs at least every 10 years, to provide for review of government programs every 10 years, and for other purposes."

"S. 1304, to improve congressional oversight of Federal programs and activities by requiring greater specificity in setting program objectives, by requiring continuing information on the extent to which programs are achieving their state objectives, by requiring periodic review of new authorizations of budget authority and tax expenditures, and for other purposes."

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"To provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for government programs and activities at least every four years, to establish a procedure for zero-base review and evaluation of government programs and activities every four years, and for other purposes."

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----- Program Evaluation Act of 1977 and Federal Spending Control Act of 1977. Hearings, 95th Congress, 1st and 2d sessions, on S. 2 and S. 1244. Sept. 28, 1977-June 8, 1978. Washington, U.S. Govt. Print. Off., 1978. 557 p. KF26.R8 1977e

"S. 2, to require authorizations of new budget authority for government programs at least every five years, to provide for review of government programs every five years, and for other purposes and S. 1244, to limit the period of authorization of new budget authority provided in appropriation acts, to require analysis, appraisal, and evaluation of existing programs for which continued new budget authority is proposed to be authorized by committees of the Congress, and for other purposes."

This hearing contains an analysis of sunset and program review legislation by J. H. Parris, p. 406-411.

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